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POLITICIANS - IN - WAITING?

**The Case for a 'Popular' Involvement in
Agitation for Representative and Responsible
Government in the Province of Wellington**

1840 – 1853

**A Thesis Presented in Partial Fulfilment of the
Requirements For the Degree of
Master of Arts in History at Massey University**

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INTRODUCTION

Politicians-in-Waiting?

The Case for a Popular Involvement in Agitation for Representative and Responsible Government In the Province of Wellington

1840 to 1853

In 2002, I completed my Honours degree dissertation entitled *The Interposing Barrier: Perceptions and Expectations of the British Army in New Plymouth in 1855*¹ and this thesis has come about as an indirect consequence of the ideas and historical situations I discovered whilst completing its research. During 1855, many colonists in New Plymouth had become extremely dissatisfied with the level of authority that was exercised by those officials whose job it was to protect the fledgling colony from the consequences of local Maori intra-tribal conflicts. An example of this was an express lack of confidence in the authority of Governor George Grey's Resident Magistrates to administer an effective European style of law and governance to the 'uncivilised' and 'lawless' Maori population. Fears for the safety of New Plymouth and settlers in outlying areas, came to a head in 1855 during the Puketapu conflict where troops were requested in order to ensure this Maori conflict was not brought within the town limits or extended into an inter-racial war. Whilst many perceived that troops would be an active force of aggression to dissuade the proliferation of the conflict, the acting Governor, Colonel Robert Henry Wynyard, deployed elements of the 58th and 65th regiments to act in no further capacity than as an interposing barrier of peace keepers, the intent being to 'over-awe' Maori with their presence rather than by their action and prevent the involvement of Europeans in the dispute.

When beginning this thesis in 2003, I originally intended to re-assess Wynyard's term as acting Governor, as he had been the butt of criticism not only for his relatively prudent actions regarding the deployment of these troops, but also on his refusal to make his own decisions regarding the implementation of responsible government into the newly formed General Assembly of the colony. It was this issue that dominated the Assembly's first through to its third session,

¹ J. A. Ward, 'The Interposing Barrier: Perceptions and Expectations of the British Army in New Plymouth in 1855', BA (Hons) Research Exercise, Massey University: Palmerston North, 2002.

and which eclipsed the importance of events in New Plymouth at the time. However, sources on the under-researched figure of Colonel Wynyard were scattered around the country and it quickly became apparent that such an exercise might be more suited to a researcher of better financial means. My research then led me to an assessment of the debate surrounding the issue of responsible government during these early sessions of New Zealand's first Parliament, and subsequently to the origins of this debate, with the first attempts at agitation to have a representative and responsible authority established in the colony. A quote I used in my dissertation from the editor of the *Taranaki Herald* about the need for a representative form of government re-captured my interest and made me wonder just who was involved in agitation for a better form of government? The editorial stated:

You must agitate, as that is the fashionable word, til you get a pure representative government – no nominees – no toadies – but free, independent, honourable men of business who have talent knowledge and experience, to watch over your affairs, and who will resist the demands of despots in Downing-street.²

The quote implies that there were other attempts at governance that were seen as being somewhat less than ideal, and that only a pure representative government would do. Once that was attained, the editor here suggests that a single class of men were the ideal set of honourable and knowledgeable men to be the people's representatives – men of business. In conducting my research, I wished to discover whether agitation was conducted for the benefit, or advancement of a single class of individuals, such as 'men of business', or whether agitation was more consistent with a popular movement, as there have been passing references made to a generalised 'settler agitation for' governmental responsibility in some past historical works.³ This thesis argues a case for the former, and asks were powerful 'men of business' merely 'politicians-in-waiting'?

This thesis, therefore, examines agitation for representative, and subsequently, responsible government. It covers the period from the birth of Wellington; the earliest organised European settlement in the colony in 1840, through to the elections for members of the new Wellington Provincial Council

² *The Taranaki Herald*, 18 August, 1852.

³ For an example of these, see the literature review, which begins on page 3 of this introduction.

and the General Assembly. As Wellington figures so prominently in the ‘story’ of agitation for governmental advancement, and was the site of the first Settlers Constitutional Association, I decided to focus primarily on the population of Wellington and its provincial satellites rather than on New Plymouth. The principal question this thesis asks is, to what extent was there a popular involvement in agitation for representative and responsible government in the Wellington province? When using the term ‘popular’, this thesis intends it to describe a reasonable cross-section of society, that is, people from both the professional and working classes, and in this case, of Wellington’s European population. The principal intent, therefore, is to assess whether agitation was spread through a reasonable cross-section of people’s interests and backgrounds, to see if agitation was an action born of a largely universal and motivated desire for governmental improvements or whether Wellington’s situation was closer to the description offered by the editor of the *Taranaki Herald*, discussed previously.

An assessment of public involvement in the push to have representative and responsible government established has particular resonance in 2004, because that year marked the 150th anniversary of the establishment of the House of Representatives. This anniversary received extensive coverage on television, particularly by TVNZ, but very few people, including this author, were consciously aware of the occurrence. This milestone has been commemorated in John E. Martin’s excellent book, *The House: New Zealand’s House of Representatives, 1854 – 2004*⁴. 2004 also marked another instance of a poor response in the local body elections. Public apathy in local body elections in the early 21st century is interesting when compared to the period this thesis covers, as in modern times enrolled electors have three weeks to decide on the candidates they wish to endorse before simply mailing their ballot paper away. In 1853, electors in Wellington had to attend two polling days during the week, and travel varying distances just to participate. Despite these obstacles, there was still a 70% turnout. This is a fact that Neill Atkinson noted in his work, *Adventures in Democracy: A History of the Vote in New Zealand*, published late in 2003 to celebrate the 150th anniversary of New Zealand’s first representative elections.

⁴ John E. Martin, *The House, New Zealand’s House of Representatives, 1854 – 2004*, Dunmore Press: Palmerston North, 2004.

He noted an increasing “public disillusionment with parliamentary politics and signs of increasing disengagement from the political process”⁵, in recent times.

Recent historical literature has also gradually become apathetic to political history, not just in New Zealand, but also within the profession around the world. For example, in conducting a survey of secondary literature on the early development of a European style of government in New Zealand, I noticed that the topic has surprisingly raised very little interest since the 1950s until very recently. In Neill Atkinson’s *Adventures in Democracy* these early observations were given some vindication. He also notes the lack of specific academic work done on early forms of government in New Zealand, as many modern historians from the 1960s onwards began to focus on social histories, rather than on what was seen as the histories of the deeds of ‘great men’. He noted, “the influence of these trends can clearly be seen in James Belich’s recent two-volume general history of New Zealand, which devotes comparatively little space to constitutional and political matters”⁶ This is a legitimate criticism. In *Making Peoples*,⁷ Belich’s stated aim was for the book to be a “stand alone work, describing the making of a neo-Britain”.⁸ One would think that it is necessary to make some form of analysis of what ideas of government – self or from ‘home’ in England – meant to our ‘two peoples’. Part of creating a neo-Britain would have been recreating British systems of law and governance, but Belich barely mentions them.

Atkinson and Martin’s books are the two most recent works on the history of politics and the political system in New Zealand. Of these, the government commissioned Martin’s, and Atkinson’s was printed with the assistance of the Electoral Commission and the Ministry for Culture and Heritage. Moving through the past, the next significant work focussing expressly on the early history of politics in New Zealand is A.H. McLintock’s *Crown Colony Government in New Zealand* published in 1958.⁹ This was also a

⁵ Neill Atkinson, *Adventures in Democracy: A History of the Vote in New Zealand*, University of Otago Press: Dunedin, 2003, p. 233.

⁶ Atkinson, p. 12.

⁷ James Belich, *Making Peoples: A History of the New Zealanders. From Polynesian Settlement to the End of the Nineteenth Century*, Allen Lane: Penguin Press: Auckland, 1996.

⁸ Belich, p. 7.

⁹ A.H. McLintock, *Crown Colony Government in New Zealand*, R. E. Owen, Government Printer: Wellington, 1958.

Government commissioned work, but remains one of the central and most influential and important works on New Zealand history. It covers the period from early contact between Maori and Pakeha, up to the inauguration of the 1852 Constitution, but does not venture beyond this event. It therefore does not discuss the failed ministries between 1854 and 1856 when responsible government was finally established.¹⁰ Erik Olssen has commented on McLintock's work, stating, "McLintock took for granted that New Zealand was blessed to be British and showed how the democratic, practical and high-minded settlers compelled the Crown to...concede self-government."¹¹ This perceptive criticism is perhaps indicative of the time period in which McLintock wrote - the post war period. W. P. Morrell also wrote a history on political development in the colony, entitled, *The Provincial System in New Zealand*,¹² focussing on 'provincialism' particularly after the 1852 Constitution. Again it is a significant work on the period, but its focus falls largely outside the parameters of this thesis. This thesis differs from both McLintock and Morrell in specified topic, as an analysis of perceptions and understandings of what government should be prior to the 1852 Constitution, has not previously been done with a specific focus on agitation for political advancement or from the sole perspective of the province of Wellington. This point of difference enables significant events, like the pledge debate surrounding the Wellington Provincial Council elections of 1853, to be given deserved focus.

New Zealand had experienced a kind of awakening to the world as a consequence of participation in both World Wars and subsequent events, including the official adoption of the Statute of Westminster in 1947 and in 1951, the signing of the ANZUS security treaty independently from Britain.¹³ This period could perhaps be considered the 'heyday' for scholarship on the period of agitation for responsible government in New Zealand in the 1840s and 1850s.

¹⁰ This thesis also largely neglects this aspect of New Zealand's history as it fell outside the set parameters of investigation for this research project.

¹¹ Erik Olssen, 'Where To From Here?: Reflections on the Twentieth-Century Historiography of Nineteenth-Century New Zealand' *New Zealand Journal of History*, 26 (1) 1992, p. 55.

¹² W.P. Morrell, *The Provincial System in New Zealand, 1852 – 76*, Whitcombe and Tombs: Christchurch, 1964.

¹³ See Martin, p. 234, Michael King, *The Penguin History of New Zealand*, Penguin: Auckland, 2003, p. 426; and W. David McIntyre, 'From Dual Dependency to Nuclear Free' in Geoffrey W. Rice, (ed.) *The Oxford History of New Zealand*, Oxford University Press: Auckland, 1992, pp. 529 – 530.

For example, James Rutherford¹⁴ conducted a post-graduate programme in Auckland dedicated to research on this subject in 1949 entitled, *The Development of Responsible Government in New Zealand 1839 – 1865*.¹⁵ His study guide included copies of significant documents and suggestions for honours students on the method of studying the period. Clearly it was a very popular subject in the post-war period. The three most relevant theses I studied which had already been done on the subject were completed in 1944, 1954 and 1957. Dorothy Ross wrote in her preface in 1944 that she wished to gauge the attitude of colonists to their new country and their government “in the period of evolution from six separate settlements into unity and nationhood as the New Zealand state.”¹⁶ This perhaps provides an explanation for the interest shown in the subject of responsible government during and after the war period, seen by many as the dawning of a feeling or understanding of an independent nationhood for New Zealand as being an entity separate from the ‘Mother-Country’ of England. Thus the study of the development of a Democratic process, and free elections in the colony was seen by some as being highly attractive.

Of these three theses, Cuthbert’s *The New Zealand Claim for Responsible Government 1841 – 1854*, published in 1954 on the 100th anniversary of the inaugural session of the House of Representatives, provides the best information for the modern reader.¹⁷ The first section provides an excellent overview of the theory of responsible government, as propounded by the Colonial Reformers in England. This thesis differs from Cuthbert’s in that it is looking not just at responsibility, but also representation, from the perspectives and differing understandings of Wellington colonists rather than the distant policy theorists ‘at home’ in England. Another example of this difference is that although Cuthbert comes to a similar conclusion as drawn in this thesis, that there was a lack of widespread interest in responsible government at the time of the 1853 elections,

¹⁴ Rutherford is the author of several books on New Zealand history covering a breadth of topics including a biography of Governor George Grey.

¹⁵ J. Rutherford, *Select Documents Relative to the Development of Responsible Government in New Zealand, 1839 – 1865 / Prepared for the use of History Honours Students in the University of New Zealand*, Auckland University College: Auckland, 1949.

¹⁶ Dorothy Ross, *Government and the People: A Study of Public Opinion in New Zealand from 1852 – 1876 in its Relation to Politics and Government*, University of Canterbury: Christchurch, 1944, p. 1.

¹⁷ D.D. Cuthbert, *The New Zealand Claim for Responsible Government 1841 – 1854*, Canterbury University College: Christchurch, 1954.

stating that there was “no popular enthusiasm worth talking about, and that Clifford’s claim that Responsible Government was the ‘demand of a united people’ was a mere oratorical flourish”¹⁸, responsibility was the central issue at hand for those who stood as candidates for office in the new institutions. This thesis stands apart from these older theses in that it focuses on one region of the colony – Wellington – and thus follows the ‘story’ of agitation for representation and responsible government through to a logical conclusion. In addition, this thesis focuses on the concept of agitation for these institutions from the perspective of New Zealand colonists, rather than solely on the theories themselves from the perspective of the ‘ideas men’ in England.

Despite the limited number of specific works on New Zealand’s early political history published in recent times, some general works have included chapters on this side of New Zealand’s Pakeha centred history, which Belich has chosen to overlook.¹⁹ As general histories, the sections on political development in New Zealand are necessarily brief, however, an unfortunate consequence of this is that the subtleties of involvement are blended together under titles such as ‘the colonists’ or ‘the settlers’ who are often described as a united ‘they’. Raewyn Dalziel’s contribution to the *Oxford History of New Zealand*, ‘The Politics of Settlement’²⁰ epitomises this trend but makes several points that are also illustrated in this thesis: that members of the Constitutional Association were generally wealthy as few men had the time or money to devote to public office and this is perhaps why some elections were not hotly contested, provincial elections aroused a greater level of interest than the general elections and that there was an air of general apathy with the political process that seemed to be the bent of a small group of men.²¹ However, Dalziel largely ignores the importance of Wellington to this chapter in New Zealand’s political history, instead focussing on Otago, Canterbury and Auckland as the centres of the ‘campaign against despotism and irresponsible government’.²² It is also

¹⁸ Cuthbert, p. v.

¹⁹ For example, see Diana Beaglehole, ‘Political Leadership in Wellington: 1839 – 1853’ in David Hamer and Roberta Nicholls, (eds.), *The Making of Wellington, 1800-1914*, Victoria University Press: Wellington, 1990, pp. 165 – 193.

²⁰ Raewyn Dalziel, ‘The Politics of Settlement’, in Rice, Geoffrey, (ed.), *Oxford History of New Zealand* (2nd ed.) Oxford University Press: Auckland, 1997, pp. 87 – 111.

²¹ Dalziel in Rice, *Oxford History*, pp. 92 – 96.

²² Dalziel in Rice, *Oxford History*, p. 91.

interesting to note that despite some general histories overviews of the development of politics in New Zealand, the *New Zealand Journal of History* has not significantly contributed to providing more focused and detailed articles on the subject.

There are two works which have been of vital importance to the completion of this thesis, A.H. Birch's *Representative and Responsible Government: An Essay on the British Constitution*,²³ and M.K. Watson and B.R. Patterson's *A Mirror of early Colonial Society: Reflections on the 1842 Wellington Municipal Corporation Election*.²⁴ Both these works contributed significantly to the ideas discussed in this thesis. Birch's work on the subtleties of interpretation inherent to the words 'representation' and 'responsibility' informs the majority of section one of chapter one. It was the only book found that dealt with this problem in any rich or in depth way, and was highly valuable despite its relative age. Watson and Patterson's complex mathematical analysis of the Municipal Council elections informs a great proportion of the third section of chapter two.²⁵

In terms of primary sources, the government publications were of course highly valuable, including the *British Parliamentary Papers on New Zealand*. The *New Zealand Gazette*, which provided the vital electoral rolls for the Wellington Province from 1853 to 1855; the *Wellington Provincial Council Acts and Proceedings* and the *New Zealand Parliamentary Debates* for 1854 – 1856 were also very useful in providing information on politician's ideas on responsible and representative government. However, by far the most valuable source has been the variety of newspapers in the province, including, most prominently: *The New Zealand Colonist and Port Nicholson Advertiser*, *The New Zealand Gazette and Britannia Spectator*, *The Wellington Spectator* and *Cook's Straits Guardian*, and *The Wellington Independent*. The newspapers of this time tended to be provincial in their outlook and seldom discussed topics of interest

²³ A.H. Birch *Representative and Responsible Government: An Essay on the British Constitution*, Allen and Unwin: London, 1966.

²⁴ M. K. Watson, and B. R. Patterson, *A Mirror of early Colonial Society: Reflections on the 1842 Wellington Municipal Corporation Election*, Working Paper No. 1 April 1984, Department of Geography, Victoria University of Wellington: Wellington, 1984.

²⁵ Also of great value to this section was A.H. Carman, *The Birth of a City*, Wright and Carman: Wellington, 1970.

with reference to consequences outside the province. In these early colonial times, the province was the colony.

Using newspapers as a source does throw up some questions as to their reliability as a source of information on public opinion. Newspapers tend to carry a certain amount of bias towards one side of an argument, no matter how altruistic they may aspire to be. This is especially true in Wellington during the 1840s and 1850s. There was a trend in Wellington of having two opposing newspapers that were opposed no matter what the issue, even if one changed sides the other seemed to do so as well merely in order to maintain the status quo. During the height of activity in the Settlers Constitutional Association the two opposing newspapers displayed their most prominent bias, each supporting one of the two political factions in operation in the province. This thesis deals with this problem by recognising and discussing that bias. The Wellington newspapers of this period should only be seen as a window into publicly proliferated opinion in the province. Even if the newspapers did not have a popular distribution or readership, it seems unlikely that a popular majority of Wellingtonian's would have been able to escape the proliferation of discussion of the issues raised in these newspapers. In order to achieve this thesis' aim of gauging the extent to which there might have been a popular involvement in agitation for the initiation of representative and responsible government, an analysis of motivation is required in order to assess who in the community felt failed and was prompted into action. Therefore, perceptions, understandings and expectations on ideas of government expressed in the newspapers are a vital element that can be tested against the only measurable component available; election results.

The importance of the history of politics should not only be recognised on the eve of some arbitrary numerical anniversary or milestone. It is necessary to rediscover the importance of the history of politics, or at least societies differing opinions, ideas and perceptions of the governing authorities in their lives, and reintegrate it into the valuable contributions made to the understanding of our past made by socially focussed historians.

As previously stated, the principal question this thesis asks, is to what extent was there a popular involvement in agitation for representative and responsible government in the Wellington province? The key to assessing an

answer to this lies in uncovering the motivating factors that lay behind any desire to agitate for representative and responsible institutions, from the perspective of Wellington's European settlers. Thus, if the motivation for agitation can be discerned, these factors can be compared with the backgrounds of the agitators to see if a reasonable cross-section of the population participated. This motivational assessment is facilitated by two parallel sets of questions spread throughout the thesis, each consisting of three parts. The first set asks, what authorities were available to the people? What degree of responsibility did those authorities display? And, what degree of representation was available, and to whom in Wellington? Corresponding to these is a second set, consisting of three more explicit questions, which asked, what were the specific authoritative failures? Who in the community felt they had been failed? And finally, what were some of the perceived solutions to these authoritative failures? The thesis thus specifically focuses on the different forms of representation and responsibility present in the authorities of Wellington, and assesses their quality, or degree to which they were fully representative or responsible, in order to gain an insight into the governmental problems the European people in Wellington perceived as being the root cause of problems in the community.

The first step towards achieving this aim is to provide a background to political ideals prevalent in the years immediately before the European colonisation of New Zealand, including a discussion on the different forms of understanding that could be expressed in the use of the words representation and responsibility. This is the subject matter of chapter one entitled, *Background: Terminology and the Development of Ideas*. It includes background on the development of such ideas as the 'rights of men' and Chartism, built on a backdrop of electoral reforms in England designed to stamp out patronage, virtual representation and rotten boroughs. These concerns were carried by colonists to Wellington, and they influenced political thought throughout the period of agitation for political development in their adopted country.

The aim of the second chapter, entitled *Early forms of Governance: Prosperity Peace and Protection, 1840 – 1846*, is to begin to make an assessment of the early forms of a European style of governance in Wellington, during this period. There were two principal forms of authority available for the new colonists – the New Zealand Company, and soon after the initial settlement, the

Governors of the Colonial Office of England. Each form of authority was seen by some individuals to have failed in its perceived duty to act responsibly for the benefit of the colonists. The Company was seen by many to have failed to deliver the promise of land, even to those who had already paid for it. The Governors were blamed for the slow progress on land claims by their investigation of the Companies purchases from local Maori, and were seen as a cause of friction between the new European population and Maori, especially in the Porirua and Wanganui districts. These early authorities were perceived by some in the community to have failed in their task to provide for the prosperity, peace and protection of the settlement of Wellington. The editor's of the newspapers lamented the poor degree of influence the colonists had in the governance of their own affairs, and blamed both the Company and the Governors for Wellington's lack of prompt progress and prosperity. This was the basis of discontent from which future agitators desire for full representation and governmental responsibility was born, the perceived lack of responsibility in providing effective means for protection and prosperity by the only authorities available in the new settlement of Wellington.

The third section of chapter two, entitled *Tories, Whigs and Rads?* makes an analysis of the self-imposed perception that Wellington's wider community was based on a three-tiered class division. These self-imposed labels were identified as: the wealthy, elite, or propertied class; the merchant or commercial interest; and the working, or common class. During the election of the failed Municipal Council in 1842, candidates stood on two tickets, one 'elite' and one 'working – class', with many 'moderates' standing on both, and was illustrative of the first political division within Wellington's community. However, these labels were merely rhetoric, and were not an accurate description of the breadth of involvement in the election process of a significant cross-section of the community.

Chapter three, entitled *Representation: A Way Forward from an Inadequate past 1846 – 1850*, assesses some of the solutions offered to the perception of governmental failures as well as the representative quality of not only the available authorities but also the agitators themselves. It focuses on the period after the failed attempt at Municipal government, where the widely based three-tiered class system dropped out of favour, at least in the newspapers, as a

mode of describing the differences between the European peoples of Wellington. While these descriptions switched from socially based divisions and identifications, to politically based ones, the same problems of a perceived failure in the available governmental systems, and especially in George Grey, the new Governor, were apparent. However, agitation against them was from thereon in described as being factional. Two 'sides' were portrayed, the first was not organised, but was identified by their opponents as being 'government supporters', which for some developed into a negative connotation to describe those who were happy with the current form of government. Their opponents were the supporters of 'liberalism' and 'freedom', who made good use of the rhetoric of ideals in their promotion of representative and responsible governmental institutions as the panacea for the problems of security and stalled prosperity they saw as the greatest challenge facing Wellington at that time.

This chapter also analyses the details of the 1846 Constitution and concludes that many Wellingtonian's concurred with the Wellington newspapers belief that it was a *destructive distillation of power*, which was overly complicated for the underdeveloped colony of that time, and at its worst provided a possibility of introducing into the colony old systems of political corruption, including patronage. The third major institution or solution to the problems of governance in the colony was introduced via Grey's *'procrastination fallacy'* which was an attempt to bridge the gap between the colonists of New Zealand and the distant figure of the Governor, and included the establishment of a Lieutenant-Governor in the southern province of New Munster, with its own legislative council made up of government officials and a small number of nominees hand picked by the Governor. The backlash against this was the motivator behind the formation of the Settlers Constitutional Association

This period saw agitation for representative and responsible government become almost explicitly the preserve of what might have been earlier described as the merchant or commercial class, with a few of the old remaining 'gentlemen' or seasoned working class campaigners involved, and this is the subject of the third section of chapter three entitled, *The 'Soi Disant' versus the 'Solons'*. This is shown through the construction of the only organised public body whose sole purpose was to agitate for these governmental changes, the Settlers Constitutional Association. The association consisted of a relatively

small percentage of the total male population and was not made up of a wide cross section of the community. In addition, there was opposition from many individuals, although of a smaller number than the numbers of the association itself, who opposed their assumption of the role of being the peoples representatives for this very reason. The Association, although the only organisation formed explicitly to agitate for representation and governmental responsibility, was only of a good representational quality in terms of its behaviour.

Chapter four, entitled *Responsibility: A Question of Politics 1850 – 1853*, assesses the period of the last years of Grey's first Governorship of the colony as anticipation for a new constitution built, assesses debate on the merits of the Constitution of 1852, which begins to rage in the settlement's newspapers. This includes an assessment of the various understandings of what governmental responsibility meant from both sides of the old factional divide. For example, former members of the Settlers Constitutional Association, especially those who sought office in the new institutions, believed responsibility would be secured by making the office of the Governor immediately accountable to the people, by creating the possibility of effecting his removal on a vote of no confidence by an elected Assembly. Members of the newly reconstituted General Legislative Council however, favoured having an Upper House of Legislature created via the means of the Governor nominating members to it from among those the elected house expressed confidence. Further confusions over the practicality and meaning behind the term 'responsibility' in government centred on whether or not the principal guaranteed the accountability of elected members to the Assembly, or directly to the people. This centred on whether or not a Minister should resign when confidence in him was lost by the people, or by the Assembly. These differences in understanding became the principal focus of the election campaign, which had its most interesting significance when former Association members refused to pledge to resign on a vote of no confidence from the people, preferring the opposing interpretation.

The third section of chapter four, entitled *An Apathetic Electorate?* makes an analysis of the available data from the Wellington elections for members for the Provincial Council and the General Assembly. While this data is limited, it can be shown that there was a 70 to 80% turnout of those registered to vote in

these elections, and a projection can be made that a possible 70% of men in Wellington were eligible by age to be an elector registered to vote. What this section shows is that although the responsibility issue did not increase the level of involvement of the public in debate or agitation surrounding the proposed new governmental machinery under the Constitution, there was a high percentage of generalised, or widespread involvement in the event of the election for the first representatives in the province.

This thesis argues that the key motivating factor for agitation was a perception of a distinct lack in quality of security and responsibility manifested towards the colonists, offered by the available governing authorities. This fear, however, motivated a distinct class of men to action, and they were primarily concerned with the security of business interests and commercial development in the colony via the means of representation and responsibility, in order to gain a measure of control over these affairs. There is little evidence of any widespread public involvement in agitation for these governmental advancements, as a single association of men with similar business interests, rather than a cross section of Wellington's societal make-up conducted most of the agitation. However, once representation was established, a good proportion of Wellington males did participate in the electoral process. Therefore, there was a limited extent of 'popular' involvement in agitation for representative and responsible government, but a large extent of 'popular' participation in these institutions once inaugurated.

ONE

Terminology and the Development of Political Ideas

Background

The terms ‘representative’ or ‘responsible’ government are often used in scholarship, and although most people will have a basic understanding of what each of these terms mean, subtleties of interpretation inherent in each of the words often impedes a full comprehension of just what is being written about. Often, we as readers are expected to have picked up these subtleties by osmosis, and be able to differentiate between interpretations based on the text we read. However, if modern readers can be confused as to what exactly was meant by these terms then how could interpretations be made of different understandings or perceptions held by nineteenth century colonists in New Zealand? Although this thesis is not explicitly concerned with political science theories or political philosophy, it is important to explore key definitions of these underlying concepts in the thesis. As such, this discussion is not intended to provide a definitive explanation of these terms and events, but rather provide an illustration of the ambiguities in the terms, which informed or perhaps misinformed, people in the past and present.

The first two-thirds of this section deal specifically with interpretations of these two terms in order to highlight these subtleties for the reader. This is done largely with the help of A.H. Birch’s 1966 publication, *Responsibility and Representation in British Government*¹, which shows these differences of interpretation in great detail. The final third of this section explores some of the concurrent events and ideas prevalent in English and European history, before the first organised settlement community set sail for New Zealand creating Wellington from the foundation of the Wakefield system. This especially focuses on the development of the representational system of government in England, in order to elucidate the background of understanding many new colonists would have had about the political rights of ‘Englishmen’. It also examines similarities and differences between New Zealand’s political development in the 1840s and

¹ A. H. Birch, *Representative and Responsible Government: An Essay on the British Constitution*, Allen and Unwin: London, 1966.

elements of the 1848 European revolution from the perspective of historian Roger Price.² These are all compared with events and issues under discussion in this thesis.

² Roger Price, *The Revolutions of 1848*, Macmillan Education: Basingstoke, 1988.

I

'Representation'

A Definition of Terms and Understandings

A.H. Birch has identified three distinct divisions of modern understanding or interpretation for the terms Responsibility and Representation. In many ways they are connected or related in meaning but still offer subtle differences of interpretation when given different emphasis. The intention of this section is to provide a background to the terminology inherent in the word 'representation' in order to make the reader aware of these subtleties. It is not an attempt at a definitive explanation instead they are here given as a background context for the purpose of a better understanding of the origin of differing ideas and perceptions prevalent in Wellington during the period covered by this thesis. The overall interpretation of 'representative' government given by Birch is one:

in which representatives of the people share, to a significant degree, in the making of political decisions. The description would not be extended to a system in which power is concentrated in the hands of one man who claimed to represent the people....The necessary condition of representative government is therefore said to be the existence of a fair number of representatives of the people, meeting together in some kind of council or assembly.³

But, asks Birch, what is a 'representative of the people'? His first definition of 'representation' states that the term can be used to "denote an agent or delegate, a person whose function is to protect and if possible advance the interests of the individual or group on whose behalf he is acting....irrespective of who they are, how they were chosen or how much discretion they are allowed"⁴ An illustration of this kind of representation can be depicted in a situation whereby members of a local community gather at their town hall in order to hear arguments made by their council on a proposal to which a majority of the people are opposed, and one of their number is chosen as speaker to represent their interests in the debate. Birch notes that this definition of representation implies a certain amount of 'consent' on the part of those represented, for whatever decisions the

³ Birch, pp. 13-14.

⁴ Birch, p. 14.

representative makes.⁵ This is the key word for this definition of representation. Not only is the representative here identified as such by his or her behaviour, but also those they behave as representatives of, must indicate their consent for the representatives to behave in such manner.

The second definition Birch proposes is related to the first and yet also distinctive. According to this definition, representation “is commonly used to describe persons and assemblies who have been freely elected: in this usage the characteristic of a representative would seem to be the manner of his selection rather than his behaviour.”⁶ Whereas in the first type of representation, the representative functioned as the advocate of the interests of those he represents, the second is defined by how he was chosen. Birch notes that:

because the conventions of politics do not compel an elected representative to act as an agent or delegate of his constituents....There can be no doubt that in the prevailing view an M.P. is regarded as being the parliamentary representative of his constituency whether or not he takes any notice of the views of his constituents. So long as he has been elected, and is dependent on his constituents for re-election, he is looked upon as their representative.⁷

This method of representation, related to a later definition of responsibility, allows for the representative to act with independence in their council or assembly, particularly if that representative felt that their actions were in their constituent’s best interests, if not concurrent to their popular view. Birch notes, “it would seem that elected persons can be described as representatives only if their election involves some obligation, however slight, to advance the interests and opinions of the electors”⁸ This obligation is primarily secured via the process of an M.P. relying on the constituents for re-election, therefore encouraging him or her to act in their interests as much as possible.

The key factor here is not to see ‘election’ as the defining word in this explanation of representation as there are exceptions to the rule. Elections can occur whereby the elected cannot be considered to be the representative of the electors. Birch uses the example of the Pope, who is elected by the College of

⁵ Birch, p. 14.

⁶ Birch, p. 15.

⁷ Birch, p. 15.

⁸ Birch, p. 15.

Cardinals, but is clearly not considered to be their representative. Another example would be of a Board of Directors of a company who elect a Chief Executive. That person would not be a representative of the Board but of the overall company. Another factor in this definition of representation is that within the genre of politics at least, when someone is elected as a representative, not only are they then considered to be the representative of the electors, but of all those eligible to vote as well, even those who voted against the successful candidate.

The third definition differs widely from the previous two and is perhaps the simplest to define. The word representation can be used to signify “that a person is or a group of people are typical of a class. A small body is said to be representative of a large one if it mirrors the main characteristics of the larger one.”⁹ Birch uses the example of statisticians, who might use representative samples in order to measure what they are studying. Another example of this would be of television companies who pitch their programming schedules at age groups, based on what a representative sample of those age groups like to see. It is this definition that formed the basis of political thought on the English electoral systems in the 17th and 18th centuries in particular. The concept of ‘virtual representation’, where people were theoretically represented by M.P.’s from areas that had similar interests as those areas with no M.P.’s, is discussed in the next section.

Therefore, it can be seen that there are subtleties of interpretation for the term ‘representation’ that may seem obvious when drawn out and described as Birch has done, but which may be lost when the term is used to describe a person in a representative position. Each has relevance to the developing political scene in nineteenth century New Zealand, where various officials acted as representatives without election and a community association agitated for political development claimed to act on behalf of the people of Wellington. Therefore, what Birch proposes here is that:

it can be said that a group of citizens can be represented in an assembly in three alternative ways: if one or more of the members of the assembly conceive one of their duties to be the protection of the citizens’ interests; if one or more of the members have been elected

⁹ Birch, p. 16.

by the citizens; or if one or more of the members are the same sort of people as the citizens.¹⁰

All three of these definitions have relevance to the political scene, but particularly the second one whereby representatives are elected to an assembly based on a trust that they will do what they say. As Birch states, elections merely provide the representatives who are expected to behave in certain ways.¹¹ They are a means to an end. But how can electors have faith in such a system? The answer lies in concepts of 'responsibility'.

¹⁰ Birch, p. 16.

¹¹ Birch, p. 17.

II

'Responsibility'

A Definition of Terms and Understandings

The concept of governmental responsibility is a by-product of the relatively recent concept of what Birch describes as 'the idea of popular sovereignty'.¹² He argues that between 1820 and 1860, ideas that were once prescribed only to political Radicals became gradually accepted as the norm, first by Liberals, and then by a majority of people within England, and around the world.¹³ In particular:

one of the beliefs which Radicals of this period shared was that citizens who were obliged to obey a government were entitled to participate, directly or through their representative, in the process by which the policies of that government were determined. Some Radicals went further and claimed that if citizens were denied the right to participate, they were thereby relieved of the obligation to obey.¹⁴

The central concept of popular sovereignty was that all men were entitled to participate in and direct the political process, and it was indeed radical in its day. It also threw up a problem that created a 'responsibility dichotomy' whereby direct participation carried with it the intimation that representatives must act as the public dictates, disallowing the individual representative the freedom to make decisions for the benefit of all, rather than individual constituent groupings. How does the government follow the dictates of popular will, without pursuing contradictory policies?

In defining 'responsibility', Birch again uses three distinctions to highlight the ambiguities this word embodies. The first two definitions of responsibility that Birch offers, describe this responsibility dichotomy. The first description is of "a system of government in which the administration is responsive to public demands and movements of public opinion....ideally, governments which are responsible in this sense take heed of the views of all

¹² Birch, p. 21.

¹³ Birch, p. 60.

¹⁴ Birch, p. 33.

groups within society when determining their policies; they are the servants of the public, not its masters.”¹⁵ Birch’s second definition appeals to concepts of ‘duty’ and ‘moral responsibility’. An example he cites is of the responsibility of a Headmaster for the well being of his pupils, or of a prison governor for the safety of both inmates and guards.¹⁶ Birch notes that, “In the same way, the ministers in office are responsible for seeing that the government pursues a wise policy, whether or not what they do meets with the approval of the public.”¹⁷ In other words, you cannot please all of the people all of the time. So while Parliament must be responsive in one definition of responsibility, in another it must also be responsible enough to know when ‘public opinion’ goes against what is best. For example, Birch quotes Lord Hailsham as saying in 1962, “When a Government has to choose between a run on the pound and its own popularity, it has only one choice it can make. It makes it unwillingly. It must face unpopularity, loss of by-elections and even, if need be, defeat at a later general election. This is the price of responsible government.”¹⁸ A responsible government must therefore seek to strike a balance between these two conflicting objectives.

The third usage of the term responsibility refers to how it signifies “the accountability of ministers, or of the government as a whole, to an elected assembly. In Britain individual ministers are responsible to parliament for the work of their departments, and the cabinet is collectively responsible for government policy.”¹⁹ In basic terms, what this means is that Parliament operates on a system of confidence. If parliament has no confidence in the government then in theory that ministry should resign. The same principle exists for individual ministers, who should resign if their departments are deemed to have failed in a particular task and no confidence is expressed in their ability to continue.²⁰ Birch quotes John Stuart Mill to illustrate this point, as he wrote in 1864, “It should be apparent to all the world who did everything, and through whose default anything was left undone....To maintain it at its highest there must be one person who receives the whole praise of what is well done, the whole

¹⁵ Birch, p. 18.

¹⁶ Birch, p. 18.

¹⁷ Birch, p. 18.

¹⁸ Lord Hailsham quoted in Birch, p. 19.

¹⁹ Birch, p. 20.

²⁰ Birch, p. 20.

blame of what is ill.”²¹ In other words some kind of balance must be decided on and maintained.

Despite Birch’s observation that the first two definitions of responsibility in politics are not exactly compatible, he notes that “people who regard political responsibility as a virtue, generally want their government to be responsible in these three senses of the term: they want it to be responsive to public opinion, to pursue policies which are prudent and mutually consistent, and to be accountable to the representatives of the electors.”²² This concept, of gaining and maintaining confidence in the officials of the day, became one of the central motivating factors behind agitation for political development in the colony and was a particular focus for agitation in Wellington. It was also a source of confusion over the idea of political responsibility that produced a division of understanding between those who demanded the responsibility of individual representatives to their electors, and those who advocated ministerial responsibility to parliament.

This confusion is unsurprising when considered against the historical background of the development of the concept of governmental responsibility. Birch notes that, as an acutely defined concept, ‘responsible government’ was relatively new and was first used in relation to demands made by the European population of Canada in 1829, and described without actually using the term by Lord Durham in his famous ‘Durham report’ on the political development and political future of Canada, published in 1839.²³ Birch relates how 3000 citizens of Upper Canada called for a local and responsible ministry, and relates Lord John Russell’s response that “it does not appear, indeed, that any very definite meaning is generally agreed upon by those who call themselves the advocates of this principle”.²⁴ In contrast, Durham wrote that the concept was a long-standing one.²⁵ Birch however claims that Durham’s account is misleading as the principle was only really established after 1832.

However, these democratic ideas of a wider representation and ideals of ministerial responsibility were a culmination of developments that had their

²¹ John Stuart Mill, quoted from McCallum by Birch, p. 20

²² Birch, p. 20.

²³ Birch, pp. 131 – 132.

²⁴ Birch, pp. 131 – 132.

²⁵ Birch, p. 132.

beginnings in the English Civil War.²⁶ This development is essential to an understanding of the origins of New Zealand colonists' ideas of representative and responsible government in the 1850s.

²⁶ Birch notes, "In one sense the development of the concept of ministerial responsibility for the actions of the executive was a corollary of the withdrawal of the monarch from personal responsibility." Birch, p. 139.

III

A Brief Historical Background

The Development of the Representational System in England

The development of the British Representational system is a much-covered subject in historical scholarship. A simplified overview of these events is included in this introductory chapter in order to show the development of ideas on government that were expressed by colonists in New Zealand in the 1840s and 1850s. These events and ideas shaped their perceptions and understandings on what it meant to be entitled to the ‘rights’ and ‘privileges’ of being an English citizen in a foreign land.

This analysis of the development of the British system of government begins in the turbulent years of the early seventeenth century. “The reigns of James I (1603–25) and Charles I (1625–49) were a period of conflict between the Crown and Parliament, leading to the execution of Charles I in 1649 and the military regime of Oliver Cromwell.”²⁷ The divine right of kings to rule without human restraint as the ‘chosen one’ of God²⁸ was challenged during the Civil War and was never fully restored. However, the Stuart line was restored in 1660, when Charles II returned from exile, coinciding with a kind of ‘rebirth’ for Britain. Britain evolved from the most turbulent European country to a force of world power, through its naval strength and trade route dominance. But most importantly, the “basis of Britain’s rise to a world power was its achievement of political unity at home. Political unity was centred on the Monarchy but rested upon Parliament – a unique British institution that provided the authority, money, and public support upon which political power depended.”²⁹

Thus, the restoration of Charles II was an exercise in establishing political authority. The system of King, House of Lords and House of Commons was re-established but the relationship was ambiguous. Charles had no desire to be exiled again, and Parliament would not allow itself to be controlled by the Monarch, even though the system of patronage, whereby the MP’s were

²⁷ E. A. Reitan, *Politics, War and Empire: The Rise of Britain to a World Power, 1688 – 1792*, Harlan Davidson: Arlington Heights, Illinois, 1994, p. 1.

²⁸ Bamber Gascoigne, *Encyclopaedia of Britain*, Macmillan: New York, 1993, p. 187.

²⁹ Reitan, p. 1 – 2.

supported by monarchical favour, was still in existence. Parliament and Monarchy had to work in tandem and by doing so, provided a stability that had long been absent in England. Charles II's successor James II, however 'rocked the boat' via his authoritarian and pro-catholic rule. The situation came to a head in 1688 where mounting pressure and popular threats from William of Orange to take the throne, saw James, his second wife and their newborn son, flee to the court of Louis XIV of France, the principal enemy of England at that time. William of Orange claimed the throne through his mother, a sister of Charles II, and his wife, eldest daughter of James II, and was committed to ensuring his reign would be conducted with the support of the three powers of the Parliament, the Church and the People.

This dramatic dynastic change (although still technically of the Stuart line) was called the 'bloodless' revolution on account that it was achieved without open conflict. It was also commonly termed the 'glorious' revolution, as it consolidated the new desire for Monarchy and Parliament to work together for the peace of the nation and the furtherance of the empire. The Bill of Rights or 'the Act Declaring the Rights and Liberties of the Subject' was passed in 1689. Its primary function was not to ensure the rights of the individual subject as its official title suggests, but rather with the relationship between the Monarch and the body representing his subjects - Parliament.³⁰ "The declaration provided that the Crown...could not interfere with parliamentary elections or freedom of speech in parliament" and that Parliament should meet 'frequently'.³¹ This Act became the basis for 'Constitutional Monarchy', which is characterised by "rule by a king or queen based on statutes which limit the monarchs power....absolute monarchy associated with the divine right of kings was made impossible by a series of measures beginning with the Bill of Rights in 1689. It was the Reform Act of 1832, which finally gave parliament a sufficiently strong democratic mandate for the monarch's role to be gradually reduced"³² to a symbolic status.

However, the period between 1689 and 1832 is one generally considered to be rife with political corruption. The political environment had certainly become more stable, and the rise of Britain's power in Europe undeniable, but

³⁰ Bamber Gascoigne, p. 65.

³¹ Reitan, p. 13.

³² Bamber Gascoigne, p. 154.

was the system considered to be fair? Three of the principal concerns, which came to a head in 1832, were the 'patronage' system, the 'rotten' boroughs and 'virtual' representation.

The reason for growing disquiet with the system of patronage was the perceived influence it had on the proceedings of Parliament. Evans noted that, "It seemed particularly objectionable that an ineffective and unpopular government could keep itself in office by putting pressure on those members representing rotten boroughs controlled by government supporters (including the crown) to vote solidly for it."³³

A borough was "an area entitled to send a representative to parliament. Thus a 'pocket borough' was one where the electors were in the pocket of a local grandee who could be sure of the seat for his nominee. A 'rotten borough' was an area which had dwindled in importance until it had so few electors that their votes could be bought."³⁴ Evans notes that it was these kinds of boroughs that drew the attention of the colonial reformers, who supported self-government rights for the colonies. They were areas that had small populations and dwindling economies, which had become almost redundant, except that they, as boroughs, were still entitled to two representatives in the House of Commons. For example, "Dunwich in the thirteenth century had been a Suffolk seaport of some note, but coastal erosion had put much of it into the North Sea, leaving 44 houses standing in the borough by 1831. The place had 32 electors for its two members."³⁵ Perhaps the most famous example is of Old Sarum, which had its customary two members in the House of Commons, to represent the boroughs seven electors.³⁶ Thus representation, as we would understand it today, was extremely limited in the nineteenth century.

The general theory, espoused by those in favour of maintaining the status quo, was that people were 'virtually represented' by parliamentary representatives who considered it their duty to be representatives of certain trades or industries that the people worked in, if not by the number of representatives from their county or borough. Birch states:

³³ E. J. Evans, *The Great Reform Act of 1832*, Routledge: London, 1994, p. 16.

³⁴ Bamber Gascoigne, p. 78.

³⁵ Evans, p. 5.

³⁶ Bamber Gascoigne, p. 78.

On one hand they were represented 'through the land on which they lived', by the members for their county or borough. On the other hand they were represented, or virtually represented, by the members who regarded it as their concern to protect the interests of the trade or industry or type of farming in which the citizens were engaged. Virtual representation, wrote Burke, 'is that in which there is a communion of interests, and a sympathy in feelings and desires between those who act in the name of any description of people, and the people in whose name they act, though the trustees are not actually chosen by them.'³⁷

The problem perceived with this system of 'virtual' representation was that in addition to individuals, in some cases whole cities, were not having their real interests represented. For example, "In 1831, the cities of Manchester (population 182,000), Birmingham (144,000), Leeds (123,000) and Sheffield (92,000) had not a single MP between them." whereas Cornwall (192,000) sent 44.³⁸ Those opposed to reform could not deny these statistics. But their defence was that despite changes in the distribution of population and the growth of some cities due primarily to industrialisation, representation of these industrial growth cities was secured through other cities with the same interests, so places like "Manchester and Birmingham were virtually represented by the Members for Liverpool and Leicester." So as long as the House contained some members from industrial cities, so that their interests would be taken into account in Parliamentary deliberations, there was no need for them all to be accorded direct representation.³⁹ The colonial reformers were no longer happy with this long established arrangement.

Birch notes that the immediate effects of the 1832 Reform Act were relatively small. He lists the abolition or reduction of representation of the smallest boroughs, giving representation to the new industrial towns, giving the largest counties more members than the smaller, and the imposition on the whole of England and Wales a franchise which was uniform except for the distinction between counties and boroughs, as the most significant advances. For Birch, the passing of the Bill showed "an implicit acceptance of the principle of representation by population."⁴⁰ There was a change from 'virtual' to an

³⁷ Birch, pp. 23 – 24.

³⁸ Evans, p. 6.

³⁹ Birch, p. 49 – 50.

⁴⁰ Birch, p. 52.

‘individual’ representation which laid the foundation of the gradual extension of the franchise. As Birch states, the Reform Act contributed to a definitive change in ideas of representation that were once dismissed as ‘Radical’ but now gained wide acceptance. This change “regarded the individual citizen as the unit to be represented, rather than the community or interest, and it regarded the opinions of the citizen as being of equal importance to, or greater importance than, his economic interests or status.”⁴¹

Another of Birch’s observations was that perhaps the passing of the Act was more important than the actual changes it made to the representative system. During the election of 1831, reform was the only important issue. Birch notes that in “constituencies up and down the country reformers demanded that the candidates pledge themselves to support it if they were returned. The result was a sweeping victory for the reformers, and the subsequent Parliament was the first one in which a large number of Members could claim that they had been instructed by the electors to pursue a particular policy.”⁴² This has a parallel in New Zealand’s political development where pledges were debated as a means of ensuring that the first elected members of Parliament in New Zealand would act responsibly by resigning upon a vote of no confidence.

In addition to the patronage system, the rotten boroughs, and virtual representation, Evans identifies another precursor to the 1832 Reform Act, which in this instance was of an ideological nature. In his opinion, it was the most powerful, and arose from the ‘enlightenment’ and philosophical musings on the relationship between the individual and the state. He writes:

Most of its advocates believed that the authority of governments over their subjects ultimately rested upon an implicit contract between governor and governed, whereby the governed gave up certain rights of independent action and initiative to the governors in return for benefits which only a government could bestow, such as security and a framework of laws to protect society from internal and external enemies. From this line of reasoning, it followed that ordinary men possessed basic rights which no government could take away.⁴³

⁴¹ Birch, p. 24.

⁴² Birch, p. 50.

⁴³ Evans, pp. 17 – 18.

This advocacy of a belief in an individual persons worth, and the expectancy of having basic rights recognised was a foundation stone of a British 'peoples' movement that ran as a corollary to the electoral reform movement. The Chartist movement began in 1838 immediately before the first batch of organised emigrants to New Zealand set sail. It was a working-men's political reform movement that centred on the belief that all men had a basic right to certain political privileges. These were stated in the 'Peoples Charter'⁴⁴ of May 1838, and included the desire for "six cardinal points of Radical Reform."⁴⁵ These were, voting by ballot, universal male suffrage, annual parliaments, equal electoral districts, no property qualification for Members of Parliament, and the payment of those representatives for their time in office.⁴⁶ Spanning particularly the 1830s and 1840s, the movement underwent periods of leadership change and infighting, and eventually became subsumed by Trade Unions and the Anti-Corn Law League.⁴⁷ But despite this, the Chartist movement is important to the development of New Zealand's political history as it incorporated many of the ideas that some of the Wellington colonists in particular desired to see implemented in the colony.

These four circumstances in Britain had a direct influence on the thinking of many individuals either involved with agitation for representation and responsibility in New Zealand's government, or those involved in reporting on such issues in the Wellington newspapers in the period assessed in this thesis. Patronage was always equated with political corruption and during New Zealand's political development was seen by many as the principal reason behind Governor George Grey's choice of men to inhabit nominee seats on his Legislative Council. The concept of rotten boroughs was often brought up in the newspapers when discussing governor's ideas for stopgap measures of intermediary forms of governance between constitutions. Virtual representation was often a topic of discussion even if the words were not actually used. There

⁴⁴ The Peoples Charter was a draft Act of parliament drawn up by a committee of the London Working Men's Association, and six members of parliament. David Jones, *Chartism and the Chartists*, St. Martin's Press: New York, 1975, p. 22.

⁴⁵ Jones, p. 22.

⁴⁶ *The Expanded Columbia Electronic Encyclopedia*, Columbia University Press, 2003, on <http://www.infoplease.com/ce6/history/a0811528.html> (viewed 16 October 2004). See also, Edward Royle, *Chartism*, Longman: London, 1980.

⁴⁷ *The Expanded Columbia Electronic Encyclopedia*, Columbia University Press, 2003, on <http://www.infoplease.com/ce6/history/a0811528.html> (viewed 16 October 2004).

was a perception that the governor was governing from Auckland, for Auckland, assuming the other settlements, due to their British origin, were in the same situation. There is also a sense that the Settler's Constitutional Association were acting as virtual representatives via the means of their behaviour.

Another event that has importance to New Zealand's political development occurred as its chronological parallel – the European revolutions of 1848. Spread right across the continent,⁴⁸ these revolutions, in short, occurred as a consequence of some long term and widespread problems, including 'hunger, disease, unemployment and business failure'.⁴⁹ Europe was engaging with conflicting governmental policies with elites opposing liberalisation of politics, including electoral reform, combined with poor and expensive communications, but more importantly, the social and economic effects of recent poor and diseased harvests. Soon, this growing tension manifested in strikes, demonstrations and food riots.⁵⁰ Although these causal factors have no parallel in the early years of New Zealand's history, Price does make some observations about these revolutions that do have a remarkable similarity to post 1848 political development in the colony.

Firstly he notes, "the decisive factor appears to have been the aggravation of discontent within middle-class groups possessing the organisational capacity which facilitated the mobilisation"⁵¹ In other words, only the relatively well off, or in Europe's case, the 'middle-class' had the time and financial means to participate in such 'extra-curricular' activities. This has parallels to the social construct of the only organised association whose express intention was to influence the New Zealand Crown colony government into securing for the colony, full representational rights and a corresponding responsible government. Chapter three of this thesis explores the social composition of the Settlers Constitutional Association of Wellington in order to assess the extent to which it might have been a popular movement.

⁴⁸ Including, France, Italy, Poland, Moldavia and Wallachia, Denmark, Sweden, Germany and Austria. See Jonathan Sperber, *The European Revolutions, 1848-1851*, Cambridge University Press: Cambridge; New York, 1994, and Dieter Dowe et al., *Europe in 1848: Revolution and Reform*, Berghahn: Oxford, 2001.

⁴⁹ Roger Price, *The Revolutions of 1848*, Macmillan Education: Basingstoke, 1988, p. 1.

⁵⁰ Price, pp. 17 – 20.

⁵¹ Price, pp. 20 – 21.

Price states that although Britain did not experience its own revolution during this period, Chartism was the greatest example of a general trend towards popular support for social reform through democratic principles such as those outlined in the 'Peoples Charter'. Circumstances were not conducive to revolution in New Zealand either, but arguments could be made that the small colony had its own equivalent to the Chartists in the Settler's Constitutional Association. Another observation of Price's is that if governments appear unresponsive to public demands, the protest and resistance to those governments are likely to become more common and the circle of those individuals interested in politics would widen. However, this was not the case in New Zealand. Price also noted that discontent makes governments desire the status quo even more than usual. As a consequence of this, he noted that the governments of Europe at the time, lost touch with the rapid social and economic changes brought on by the Industrial Revolution and showed a widespread failure to respond to these challenges. The result was a deepening loss of confidence amongst government supporters and the increased likelihood of collision.

This description also describes the situation in New Zealand during its political development. Many colonists were unhappy with the level of social and economic development since the Crown Colony system took over their governance and lost confidence in the Governors who were perceived to have lost touch with the individual needs of each settlement. However there was no collision or revolution. This was because, unlike Europe, there had not been years of fallout from industrialisation developing into a crisis that struck at the hearts of ordinary people through food and wage shortages. Finally, Price states that political awareness was stimulated during this period of Europe's history even if many may have subsequently lapsed into apathy. In New Zealand, this thesis argues that there was no stimulus to political activism except when action was possible, like participation in elections.

Therefore, there are several terms, ideas and people to 'look out for', so to speak, throughout this thesis, including differing interpretations of representation and responsibility, the use of the word 'popular', as well as ideas such as patronage, virtual representation and rotten boroughs, not to mention historical parallels or corollaries that encompass similar ideas, but dissimilar actions.

The importance of this brief overview of the British political struggles to this thesis lies in the fact that it is the history of the British colonists in New Zealand. Most of the 'working class' were aware of the changes to the representative system as either they, or at least their parents lived through many of the most significant early changes. Many were well aware of the newly defined rights of the individual Englishman, and so were the 'men of means'. Whether or not the drive for responsible as well as representative institutions in the colony of New Zealand was popular, those who advocated it knew of the inadequacies of the past and the potential of the new British institutions, and the power of an ideals based rhetoric.

TWO

Prosperity, Peace and Protection

1840 - 1846

While chapter one discussed the background of the ideas of 'representation' and 'responsibility' through their development in England, chapter two examines Wellington's early political situation, covering the period of early 'Crown Colony' Government from 1840 to 1846. It examines the individuals and institutions that were deemed by the colonists to be in some degree responsible for the peace, prosperity and protection of the colony. Also included in this chapter is an analysis of the self-proclaimed class titles and identities in evidence in Wellington during this period, and the impact of these social divisions on the development of political awareness in the fledgling settlement. The purpose of this chapter is to assess these foundations, upon which future calls for representative and responsible government were made, in order to examine whether or not it could be deemed to be 'popular'.

This is done initially by looking at the first leaders of the Wellington community – the officers of the New Zealand Land Company,¹ with a primary focus on the Company's Principal Agent William Wakefield. It examines instances of colonists' criticism and defence of his actions through the medium of the local newspapers, the degree to which he represented the interests of the colonists as a whole and the degree of responsibility the company actually displayed. Secondly, the chapter examines the leadership of New Zealand's first two Governors, Captain William Hobson, and Captain Robert FitzRoy, as part of the Crown Colony system of government, and makes an analysis of the degree to which they represented the colonists' interests. Finally, this chapter examines the case of the Municipal Corporations bill and in particular, the question of the representation of the 'Working Classes' of Wellington in the election of the first borough council in New Zealand. It analyses not only the division of the community in terms of Company or Government supporters and detractors, but

¹ As Gavin McLean notes in *Wellington: The first Years of European Settlement, 1840-1850*, Penguin: Auckland, 2000, p. 11, the New Zealand Land Company eventually dropped the 'Land' part of their title.

also the division of the community in terms of class and just 'who' these supporters and detractors were. This disgruntled 'grumbling' from the colonist's on the perceived failure of the institutions that were supposed to represent their interests was the foundation upon which calls for self-government through 'representative' and 'responsible' bodies were built, and forms the basis of an assessment of the degree to which there was a 'popular' involvement in later agitation for representation and responsibility in New Zealand's governance.

The basic, key questions that guide this chapter are, what were the forms of representation and authoritative responsibility available to Wellington's first European colonists? What degree of representation did those authorities display? What degree of responsibility did those authorities display?

I

A Heavy Responsibility

The Colonists and the New Zealand Company

‘Port Nicholson’ was the name given to the harbour of Te Whanganui a Tara by the New Zealand Company in preparation for its settlement by their first English immigrants in 1839. Burns notes, “at this time there were seven major dwelling-places around the harbour. To the North were Waiwhetu and Pito-one, to the west Nga Uranga and Kaiwharawhara, and to the south-west Pipitea, Kumutoto and Te Aro.”² After a false start in the north, the early colonists were moved to the southwest, to the area Wakefield had designated ‘Thorndon’. Although the majority of these early colonists were bitterly disappointed with their situation, all they had in terms of authority figures were the officials of the New Zealand Company, and for the first few months of the colony’s existence, ‘government’ was firmly attached to the New Zealand Company nucleus of employees and supporters. Until the establishment of the Queens authority in New Zealand, there was no other recourse of complaint but that through the Company’s Agent to the Board of Directors in England.

Therefore, Wellington’s first ‘leader’ was the Company’s Principal Agent, Colonel William Wakefield.³ As the Company’s representative in the colony, it was Wakefield’s responsibility to translate into concrete form, the promises of land made by the Company back in England. His first job was to secure from local Maori enough land to fulfil the land contracts signed in England by those substantially wealthy enough to have pre-purchased their land before emigrating. This would have been a mammoth task for even the most gifted of diplomats, which, unfortunately, Wakefield was not.⁴ His second task was to enact a document signed in England by both the New Zealand Company directors and the intending colonists.⁵ This was, in essence, a ‘Provisional Constitution’,⁶ which provided for the creation of an independent association of Company

² Patricia Burns, *Fatal Success: A History of the New Zealand Company*, Heinemann Reed: Auckland, 1989, p. 98. The principal chiefs Wakefield treated with for land were Honiana Te Puni-Kokopu of the Pito-one area and Te Wharepouri of Ngauranga. See McLean, p. 17.

³ Brother of New Zealand Company founder Edward Gibbon Wakefield.

⁴ See McLean, pp. 15 – 26.

⁵ A. H. Carman, *The Birth of a City*, Wright and Carman: Wellington, 1970, p. 2.

⁶ See Appendix A I.

officers and collaborators, formed together in a Committee to provide for law and order, transposed directly from the English model, until such time as the Crown declared sovereignty over New Zealand. This was deemed to be necessary by the Company Directors in consequence of the non-endorsement of the English Parliament of this colonisation venture. They were concerned over the issue of sovereignty, especially since the 'Declaration of Independence of the Sovereign Chiefs of New Zealand' had been signed under the guardianship of the British Parliaments 'Resident' in New Zealand, James Busby, in 1835. The need for this 'Provisional Constitution' was further justified after the signing of the Treaty of Waitangi in February 1840 in the *New Zealand Gazette*:

the Government of England has recognised every petty tribe in New Zealand as an independent foreign power, and has by implication asserted the right of the Chiefs to exercise authority over every person residing within their territories according to the laws, or rather customs, of the tribe. Every act of Government therefore within the Colony, whether legislative or executive, must derive its validity from the assent, express or implied, of the principal Chiefs of the district.⁷

The sovereign chiefs of Te Whanganui a Tara were reported as having duly ratified the 'Constitution'.⁸

Its purpose was to establish an authority within the colony to control the behaviour of settlers by making them as accountable to the 'laws of England' as they would have been at home. The Provisional Constitution was also created to plant the seeds of a wider authority and legitimacy for the colony, in preparation for what was perceived as the inevitable declaration of the Queens sovereignty over New Zealand. Unfortunately, the Company had promised the colonists something that they, in reality, had no idea whether or not they could guarantee. The *New Zealand Gazette*⁹ proudly declared:

It further appeared incumbent upon the Council to secure to the Colonists...self-government by means of representatives chosen by the people, which is the birthright of every Englishman. So that whenever Great Britain shall acknowledge this colony as one of its

⁷ *The New Zealand Gazette*, Saturday, April 18, 1840, p. 2.

⁸ *New Zealand Gazette*, Saturday, April 18, 1840, p. 3.

⁹ *The New Zealand Gazette*, later the *New Zealand Gazette and Britannia Spectator*, and later still, the *New Zealand Gazette and Wellington Spectator*.

dependencies, there may be nothing which requires alteration; and in the mean time the Colonists may enjoy the laws to which they have been accustomed, and the liberties to which as Englishmen they are entitled, and may provide by their representatives for the peace; order, and prosperity of the community¹⁰

The Company's object in creating this body was here advertised as a foundation of government and self-reliance for colonists to build on, which would remain largely unchanged if and when the British Government ever proclaimed their sovereignty over New Zealand.¹¹ What it provided was an agreement to governance, where the new settlers had given their consent to a provisional government to act in the place of the Crown. It therefore fulfilled the criteria for the first of Birch's definitions of representation.

The Council was able to exist in its own private vacuum for five months. However once the authorities in England and the Governor were made aware of the Companies actions, reaction was swift. The Home Government quickly denounced the action and ordered the Company's directors to have the council disbanded. Before the news of the Council's illegitimacy could be received by sea however, Hobson had received word of the Council's existence from naval Captain Pearson. Hobson considered it to be a treasonous act, in direct defiance of the Queens authority.¹² In the face of such a harsh reaction, the Council quickly prepared a document declaring their allegiance to the Crown, and dispatched Wakefield to the Bay of Islands to present it to Hobson personally.¹³

The Council did not exist long enough for the promised re-election of its officials to take place, creating the possibility of the Council being truly representative of the community rather than a nominal board of New Zealand Company officials. While the principle of self-government was recognised as being the ultimate right of the Englishman it was also recognised that perhaps

¹⁰ *The New Zealand Gazette*, Saturday, April 18, 1840, p. 2.

¹¹ The *Gazette's* editor continued, "It will remain such at least until this Colony shall be united with the British Empire; and the Council trust that even then it will continue to exist, subject only to the necessary alterations which such a union would involve." *The New Zealand Gazette*, Saturday, April 18, 1840, p. 2.

¹² The emotive reaction of Hobson to the news of the existence of the council has been singled out as a reason for Hobson's declaration of the Queens sovereignty over the whole of New Zealand. This was before the ratification of it by the majority of tribes around the country.

¹³ See Carman, pp. 8 – 9; Mclean, pp. 41 – 43; Burns, p. 155; A.H. McLintock, *Crown Colony Government in New Zealand*, R.E. Owen, Government Printer: Wellington, 1958, p. 266; Raewyn Dalziel, 'The Politics of Settlement', in Rice, Geoffrey, (ed.), *Oxford History of New Zealand* (2nd ed.) Oxford University Press: Auckland, 1997, p. 87.

the fledgling colony was not yet ready for the burden of self-government. The *Gazette* stated “that by emigrating from Great Britain to these islands we have done nothing to forfeit or impair our prescriptive and hereditary rights to free institutions and a responsible government appears to us incontrovertible. But the present is not the fitting period for urging those rights.”¹⁴ After the demise of the Council, the Wellington political scene was, during the Crown Colony period, marked by factionalism between those who sought responsibility from the New Zealand Company on the one hand, and representation and good government from the Governor on the other. It was these authorities that were blamed for perceptions of lack of progress, rather than the failure of this interim, provisional government. It was the New Zealand Company and the Crown who were the bona fide authorities, and the first issue to spark reaction against them was the issue of land.

William Wakefield had eventually found himself to be in an unenviable position. He was caught between the slow investigation of all the Company’s land purchases, as ordered by the newly established Crown authority, and some colonist’s demands for the fulfilment of their land contracts.¹⁵ The investigations slowed the allocation of lands so much that many eligible colonists did not receive their land for months, and in many cases, years. This was seen by some as a ‘cruel system of swindling’¹⁶ and led to many vociferous condemnations of the Company and the Company’s Agent, to be printed in the newspapers, primarily in *The New Zealand Colonist and Port Nicholson Advertiser*. For example, on Tuesday, May 16, 1843, an editorial in the *New Zealand Colonist* stated:

What the final views of the Company’s Agent are we are at some loss to determine; perhaps he scarcely knows himself; but of this we are certain, that the vacillating policy and indecision exhibited throughout the course of his administration of the affairs of this settlement, have tended to engender amongst us a want of confidence in the intentions of the Company to fulfil their pledges towards us, and to dispirit

¹⁴ *The New Zealand Gazette*, Saturday, July 25, 1840, p. 2.

¹⁵ B. J. F. in McLintock, A.H., (ed.) *Encyclopaedia of New Zealand*, Vol. 3, R.E. Owen Government Printer: Wellington, 1966, p. 541.

¹⁶ Quoted in John Miller, *Early Victorian New Zealand: A Study of Racial Tension and Societal Attitudes 1839 – 1852*, Oxford University Press: Wellington, 1974, p. 108.

many valuable settlers who would, otherwise, have employed their capital and energies for the benefit of the colony.¹⁷

Others, like R. Davies Hanson, exonerated the Company, stating that they had “fulfilled in the amplest manner the implied pledges given to those persons who purchased land from them. They have laboured with zeal, energy and perseverance, and with consummate ability, to obtain for us a confirmation of our titles to land, and the necessary powers of local self-government”.¹⁸ Hanson instead blamed Wakefield for the land blunders which were not only causing impatience among European colonists in Port Nicholson, but also serious security issues for settlers in the Hutt Valley, Wanganui, and eventually in Nelson as well. Hanson accused the *Gazette* of suppressing anti-Wakefield sentiment: “But you cannot be ignorant that there is in this community a wide-spread dissatisfaction with the proceedings of the Company’s Agent.”¹⁹ The *Gazette* denied the existence of such dissatisfaction,²⁰ and countered by providing evidence that there was also a strong faction which supported Wakefield, in an account of the public meeting held on 22 April 1842 where Mr. Stokes, was met by ‘a storm of groans and hisses’ when he defended the Government and asked if not the New Zealand Company and its Principal Agent were also to blame for the recent outrages involving Maori unrest in the Porirua district and in Wanganui. *The New Zealand Gazette* reported that “the attempt to create a diversion in favour of the Government, by assailing Colonel Wakefield, signally failed....We never witnessed a stronger demonstration of public feeling than that in his favour on Wednesday evening.”²¹ The factional division between supporters of Wakefield and the New Zealand Company and the Company detractors was wide and lasting. It had a significant impact on the election for New Zealand’s first Municipal Council election in October of 1843, which is discussed in the third section of this chapter.

In comparison, the Council of Colonists had built into its Provisional Constitution a clause, which allowed for elections to take place in order to make

¹⁷ *New Zealand Colonist and Port Nicholson Advertiser*, Friday, May 5, 1843, p. 2.

¹⁸ R. Davies Hanson, in *The New Zealand Gazette*, Wednesday, January 5, 1842, p. 2.

¹⁹ Hanson, *New Zealand Gazette*, Wednesday, January 5, 1842, p. 3.

²⁰ *The New Zealand Gazette*, Saturday, January 8, 1842, p. 2.

²¹ *The New Zealand Gazette*, Saturday, April 25, 1842, p. 2. See also Appendix A II for a pro-Wakefield poem.

the Council 'responsible' to the settlers.²² In other words, in order to be re-elected by the colonists each of the councillors was expected to act for the colonist's best interests rather than their own, fulfilling the second of Birch's definitions of representation²³ This also would have provided the colonists with the power of 'representation' and presumably made the Council responsible to its electors. The experiment was forestalled before it could succeed or fail in these terms, yet even if it had survived, it is unlikely it would have stood up to the 'anti-Company' faction's want of confidence in either the Company or its Principal Agent.²⁴ This was because the Company's Principal Agent was always to be the councils President.²⁵ A request to have Wakefield replaced would have been an extremely long and drawn out process, involving requests to the New Zealand Company's Directors in London and waiting for the reply with baited breath. In consequence, they were no more or less represented than they would be by a Governor. The principal argument made by the 'Colonial Reformers' against the system of colonial governors being instructed by the Colonial Office at 'home' was the issue of distance, time and delay in lodging colonists' right to protest against the actions of their leaders. Yet this was the situation the Company, not the Colonial Office, had initially intended to impose upon the men and women it had brought to Wellington. The 'Anti-Company' colonists thus had no effective means of resistance, other than 'grumbling', against what was perceived as a lack of responsibility displayed by senior officials of the New Zealand Company. A correspondent to the *New Zealand Colonist* stated:

We have been cruelly and shamefully neglected, our just rights have been withheld, and our remonstrances disregarded. A heavy responsibility attaches to the New Zealand Company, and assuredly it will be demanded. I know not, and care not through what agency this Company was misled, but to them we must look for redress. We

²² *The New Zealand Gazette*, Saturday, April 18, 1840, p. 2.

²³ Birch's second and third definitions of representation also account for the *New Zealand Colonist's* editor's view that the Company and the colonists were interdependent, at least in the early years of settlement, each needing the other to survive, and thus the representatives would have an obligation to act in the best interests of the colonists in order to secure re-election, but also because of this interdependency of interests. This was a fulfilment of the third of Birch's definitions of representation. *New Zealand Colonist and Port Nicholson Advertiser*, Tuesday, August 9, 1842, p. 2.

²⁴ See *New Zealand Colonist and Port Nicholson Advertiser*, Friday, May 5, 1843, p. 2.

²⁵ See Appendix A I.

trusted in their judgement and integrity, we believed their confident assertions – and they must recompense us.²⁶

Company supporters argued that responsibility for the peace and protection of the colonists, had passed to the Government immediately after sovereignty had been proclaimed, and that all subsequent ills hampering the prosperity of the colony flowed as a consequence of the actions of the Governor and his officials. This was a sentiment that many agreed with.

The situation was nicely summed up by the *New Zealand Colonist's* editorial of May 1843, which stated that the Wellington colonists found themselves stuck between the New Zealand Company and the British Government through the Colonial Office. The newspaper reported:

on the one hand, if we ask of the Company a fulfilment of their promises, we are told that the Government has interfered, and has taken the matter out of the hands of the Directors and their Agent. And on the other, when we appeal to the Government for that protection which is essential to the progress, almost to the existence, of the Settlement, we are told that the Company has no right to take or to deliver possession of land which the natives have not even nominally sold.²⁷

This, of course, did little for the colony's prosperity or progress. The *Colonist* declared that if the government denied them the means to provide such security for themselves then the Company was obliged to provide what they promised in terms of land, and the Government was obliged by the mere fact of taxation to provide the utmost quality of protection to the settlement; "we must be allowed to tell each, that they are under the obligation of a pressing duty to comply with our demands."²⁸ This amounted to a demand for these institutions, to be 'responsible' to the colonists for their actions. However, in consequence of neither of these institutions being an elected representative body, inherent 'responsibility' was more of an ideal than a reality in the conduct of either the New Zealand Company or the Crown Colony Government. It was the fundamental lack of responsibility displayed by these and later authorities in the

²⁶ *New Zealand Colonist and Port Nicholson Advertiser*, Tuesday, May 16, 1843, p. 3.

²⁷ *New Zealand Colonist and Port Nicholson Advertiser*, Tuesday, May 23, 1843, p. 2.

²⁸ *New Zealand Colonist and Port Nicholson Advertiser*, Tuesday, May 23, 1843, p. 2.

colony that led to the desire to have a representative voice in the governance of the colony.

II

‘A Government of Neglect and Interference’ The Colonists Under Governors Hobson and FitzRoy

Once Hobson established sovereignty in New Zealand through the signing of the Treaty of Waitangi, the Company virtually lost all rights, real or assumed, to treat with Maori for the sale of land. The right of pre-emption for all sales of land was instead secured to the Queen’s representative in the colony. The consequence of this was that the Company and its supporters now had a legitimate excuse for the delay in the fulfilment of its land contracts. In addition to this, an avenue was created for fierce criticism of the Governors personally, as well as for criticism of the form of government established by the Colonial Office instructions. While Company supporters deflected responsibility onto the newly established English authority, even those colonists who were decidedly ‘Anti-Company’ had cause for complaint against the early system of government established in the colony, as it was even less effective than the Company’s attempts.

Captain William Hobson accepted the office of Lieutenant-Governor of New Zealand in 1839, arriving at the Bay of Islands, via Sydney, on 29 January 1840. As the Queen’s representative in the colony, he was designated by his instructions to act as a consul:

with power to negotiate with the chiefs for a session of sovereignty over part, or all, of their territory. Within such limits he would have the rank of Lieutenant-Governor, subject to the over-ruling authority of the Governor of New South Wales. He was solemnly warned that the Maori title to the soil and sovereignty of the country was indisputable and that, where session had been granted, the Crown’s right of pre-emption must be upheld. He would not be provided with a military force or be permitted to raise a militia. Essentially he would have to be guided by his own judgement²⁹

Government from New South Wales lasted for fifteen months and did little to instil in the colonists a feeling of confidence in the future of Crown Colony

²⁹ See McLintock, *Encyclopaedia of New Zealand*, Vol. 2, p. 90, and *British Parliamentary Papers*, (BPP), Vol. 3, 1835 – 1842, pp. 36 [84] – 42 [90].

Government in New Zealand. The *Gazette* of June 6, 1840, congratulated fellow colonists in the securing of their rights as British citizens through the establishment of the Queen's sovereignty. The editor looked forward to the colony being granted a representative government in the future as a 'just right'. However if this was too long denied them, and governance from New South Wales too prolonged, he claimed that Wellington would become equivalent to the lowest rank of colony – a Crown Penal Colony.³⁰ To the settlers in Wellington, who were voluntary emigrants seeking out a new and prosperous life, being placed under laws designed for the law and order of convicts was particularly abhorrent. It was also, in a sense, a substitute for the situation the New Zealand Company had placed under the colony. Instead of going through Wakefield to the Directors of the Company whose MP sympathisers then lobbied the English Government, all requests and complaints had to go instead firstly through Lieutenant Governor Hobson, then to the Governor of New South Wales, Sir George Gipps, and then on to the Colonial Office in London. The editor of the *Gazette* stated, "Neglect and error will be the rule; and for this our remedy must be a petition to the office in Downing-street, to be forwarded through the Sydney Government! Our readers may judge for themselves of the probability of obtaining redress under these circumstances....no measure could be more preposterous or more unjust."³¹ This was even less 'representative' than the Company's Council, as the New South Wales Government had no vested interest in the welfare of the Wellington settlement, whereas the New Zealand Company had.

When the barque *James* arrived in Wellington in April 1841, bearing the news that New Zealand had been separated from the authority of New South Wales, the news was welcomed by the editor of the *Gazette*, who consequently warned, "his Excellency will have to stand or fall by his own conduct....We cannot but hope that the new position occupied by Captain Hobson will awaken him to a sense of his duties to this settlement."³² With the notice of separation came Hobson's new set of instructions and the 'Charter' of 1840. This set up the 'Crown Colony' system of government, and re-emphasised Hobson's obligation

³⁰ *The New Zealand Gazette*, Saturday, June 6, 1840, p. 2.

³¹ *The New Zealand Gazette*, Saturday, July 25, 1840, p. 2.

³² *The New Zealand Gazette*, Saturday, April 10, 1841, p. 2.

to Maori. However, it did not significantly increase his over-all power, nor create for the Wellington colonists a replacement for their potentially 'representative' council, or a body they could place confidence in as being responsible to them.

By his instructions, Hobson was to set up two governing bodies. The 'Executive Council' was to be an advisory body, and the 'Legislative Council' was to be a law making body.³³ The Executive Council consisted of four officers, the Governor himself, the Colonial Secretary, the Attorney General and the Colonial Treasurer. The job description of the Council, as defined by the charter, was that the Governor should, "in all things consult and advise with our said Executive Council, and that you do not exercise the powers and authorities aforesaid, or any of them, except by and with the concurrence and advice of our said Executive Council"³⁴ However, there were many 'loop holes' that ensured that the Governors authority was not tied to their advice, including the fact that the Council could only discuss topics that the governor himself suggested.³⁵ The Legislative Council was to consist of the Governor who would preside over each meeting, the three officers of the Executive Council, together with three Justices of the Peace. They were to have "full power and authority to make and ordain such laws and ordinances as might be required for the peace, order, and good government of the said colony"³⁶, and were guided by various regulations as to their conduct. Constitutionally, this was a step up, particularly for the settlements at Kororareka and Auckland who were at the hub of the system of Government. For many colonists in Wellington, it was cold comfort.

The system was non-representational, as Government officers in temporary residence in New Zealand occupied all the positions, and the three positions where representation was possible, through the Justices' of the Peace, were Government nominees.³⁷ The *Gazette* of 4 December 1841 briefly assessed each J.P. on their merits, and found each wanting.³⁸ The editor later proclaimed,

³³ McLintock, *Crown Colony Government*, pp. 98 – 117. See Hobson's Instructions, *BPP*, Vol. 3, 1835 – 1842, pp. 156 [34] – 164 [42].

³⁴ *BPP*, Vol. 3, 1835 – 1842, p. 160. [38]

³⁵ *BPP*, Vol. 3, 1835 – 1842, p. 160. [38]

³⁶ *BPP*, Vol. 3, 1835 – 1842, p. 157. [35]

³⁷ See, *The New Zealand Gazette*, Wednesday, May 31, 1843, p. 2.

³⁸ The editor stated that Mr Porter, although highly respectable was ill qualified for the post by his mercantile education. Mr. Clendon was objected to on the grounds of a 'land-jobbing' controversy in Auckland, and Mr Earp, who was in theory the 'representative' of the southern settlements, was derided for what seemed like a lack of effort in getting to Auckland in time for

“In what other country or Colony does a herd of official people assemble in a remote corner of the land, cut off from all but the great majority of the inhabitants, and there proceed to pass laws and attempt to discharge the duties of a Government?”³⁹ The *Gazette* considered the Council to consist, not of representatives, but rather of a nuisance of ‘sucking Sultans’.⁴⁰ The single member to nominally represent the southern settlements, including Wellington, was G.B. Earp. Although, as McLintock notes, “the members did precisely what was expected of them for, although they were in principle entitled to perfect freedom of debate and vote, the mind of Hobson was not attuned to an appreciation of the merits of independent thinking”⁴¹, Earp did offer some resistance. Comment on a report from Auckland in the *Gazette* stated, “the sucking Sultans have been at high romps.”⁴² The report referred to the dismissal of Earp from the council on a vote of no confidence once it was leaked he had been involved in creating for an Auckland newspaper, an article that was critical of the Government.⁴³ On the close of the session, the gazette could only comment, “Port Nicholson was not represented in that council. Mr Earp was the Governor’s choice, not that of the Settlement. From the great distance of Auckland from Wellington and the difficulty of communication, the right of petitioning against any unjust or unpopular measure is virtually annulled.”⁴⁴

‘Hobson’s Choice’ of Auckland as the seat of Government was at the centre of the vast majority of ‘Anti-Government’ sentiment expressed in the *Gazette*, as having no real representative there meant that there was no influence upon the government in favour of Wellington, creating, in the eyes of the editor of the *Gazette* at least, a government of irresponsible officers.⁴⁵ This was

the sitting of the Council. The editor felt it unnecessary to discuss the Government officers because as such, it was assumed by him that they would follow the Governor, and therefore could not represent the interests of Wellington colonists. *The New Zealand Gazette*, Saturday, December 4, 1841, p. 2.

³⁹ *The New Zealand Gazette*, Wednesday, February 16, 1842, p. 2.

⁴⁰ “We have sometimes doubted whether any advantage to arise from the presence of the Government in Port Nicholson would not be over-balanced by the nuisance of these ‘sucking Sultans’. Their official station gives them the power of annoyance, and even well-educated men are apt to overrate the importance the office bestows.” *The New Zealand Gazette*, Wednesday, March 23, 1842, p. 2.

⁴¹ McLintock, *Crown Colony Government*, p. 132.

⁴² *The New Zealand Gazette*, Saturday, March 26, 1842, p. 2.

⁴³ McLintock, *Crown Colony Government*, p. 132. *The New Zealand Gazette*, Saturday, March 26, 1842, p. 2.

⁴⁴ *The New Zealand Gazette*, Saturday, March 26, 1842, p. 2.

⁴⁵ See, *The New Zealand Gazette*, December 1, March 22, March 26, 1842, and July 26, 1843.

particularly evident when attention was drawn to the expenditure made by Hobson. The editor of the *Gazette* notes that although the Wellington colonists were taxed the same as everybody else, the benefits were hardly evident in the city.⁴⁶ He noted a year and a half later that, “In New Zealand we have no representation. An irresponsible Government takes as much or as little of our money as it pleases, and it spends it when, where and as it likes, without our consent or advantage.”⁴⁷ He noted that even if the Wellington colonists were successful in getting Hobson recalled, it was the system of Government that was fundamentally at fault, and the colonists would be disadvantaged even if they did get a new, sympathetic Governor.⁴⁸ The perceived problem with the Legislative Council was a continuing issue in Wellington and was a principal focus of criticism before 1852.

Under Hobson,⁴⁹ the Wellington colonists felt neglected. The *Gazette* in particular expressed feelings of having been abandoned not only by the seemingly indifferent and unconcerned attitude of Hobson towards the Company’s principal settlement, but also by the simple fact that the seat of government had been set so far away from the colony, there was a feeling that the colonists were divorced from the opportunity of being able to participate in their own Government. Under FitzRoy, despite early hopes that he would be sympathetic to the Wellington settlement, this sentiment began to reverse. Instead of bemoaning the Governors lack of involvement in the settlement, his attempts to fulfil the colonial policy of England, outlined in his instructions was seen as meddlesome, and interfering. Subsequently, the grumblings of the Wellington papers turned to a perception of misplaced philanthropy, believed to be at the heart of England’s colonial policy, driving FitzRoy to make, in their eyes, critical mistakes, in which he appeared to favour Maori issues over and above those of the colonists.

FitzRoy arrived in the colony on 26 December 1843, to excited expectations. During Willoughby Shortland’s reign as Officer Adminstrating the Government, Wellington and Nelson had been rattled to the core by the Wairau

⁴⁶ *The New Zealand Gazette*, Wednesday, December 1, 1841, p. 2.

⁴⁷ *The New Zealand Gazette*, Wednesday, July 26, 1843, p. 2.

⁴⁸ *The New Zealand Gazette*, Wednesday, March 29, 1843, p. 2.

⁴⁹ Hobson died in office on 10 September 1842. The Colonial Secretary, Lieutenant Willoughby Shortland R.N. became the Officer Adminstrating the Government until FitzRoy’s arrival. See McLintock, *Crown Colony Government*, p. 140, 143.

affray, and the land claims had grown more complicated and contested. The *Gazette* expressed early confidence that FitzRoy would be the answer to all their problems, as surely any government would be better than that exercised by Hobson.⁵⁰ Hope was pinned particularly on his ability to resolve the Land Claims issue, on which progress had ground to a halt during Shortland's administration. One expression of hope in the *Gazette* stated, "We hope that Captain Fitzroy will remove the evils so far as in his power. He may give us titles to, and possession of our land, and protect us against the aggressions of the Natives."⁵¹ This sentiment lasted seven months. After the failure of FitzRoy to fulfil promises to settle Wellington's land question and return in six months, the editor's hopes and hesitant respect soon turned to outrage and even more vociferous derision of the Governor than Hobson had suffered.

There were several issues, which have historically marred FitzRoy's career. The first was his reaction to the Wairau affray. In a Memorial to FitzRoy in the *Gazette* of January 13, 1844, the memorialists ask that no "interpretation of any treaty, or any short sighted philanthropy should be pleaded as an exemption from the authority of the Queen's government. We believe that the Massacre at Wairau was only one example of what may be often repeated and on a greater scale, if the entire policy relating to the aborigines be not changed."⁵² FitzRoy instead took the moral high road, and made his judgement based on the evidence he received and from the constraints placed on his actions by the 'vacillating', philanthropic policy of the Home Government that most colonists actively despised. He exonerated the Maori involved of all blame and instead criticised the actions of the settlers involved.⁵³ A correspondent to the *Gazette* asked for what had the colonists seemingly given up their self-dependence? Was it for "the Wairau massacre, or the suspension of the British Constitution that took place to screen our murderers?"⁵⁴ For the Wellington colonists, this was another example of the lack of responsibility displayed by their Government, which was seen as being hamstrung by the ideals of theorists at 'home' in England.

⁵⁰ *The New Zealand Gazette*, Wednesday, December 20, 1843, p. 2. See also October 7, 1843, and January 10, 1844.

⁵¹ *The New Zealand Gazette*, Saturday, December 9, 1843, p. 2.

⁵² *The New Zealand Gazette*, Saturday, January 13, 1844, p. 3.

⁵³ McLintock, *Crown Colony Government*, p. 174.

⁵⁴ *The New Zealand Gazette*, Wednesday, August 14, 1844, p. 2.

The issue of land claims was another, which the papers blamed not only FitzRoy for, but also the philanthropic policies of England. The *Gazette* reported that through the investigations of Land Commissioner Spain, "...we are bound to believe that Maori fraud and Maori belief in the acts of injustice which may be committed towards the white settlers with impunity, alone prevent the Europeans from obtaining possession of the land absolutely necessary for them to secure the means of subsistence in New Zealand."⁵⁵ Instead, FitzRoy reversed some of the decisions made by Spain and, in the case of Port Nicholson, forced the New Zealand Company to pay aggrieved Maori more, for less land. The first edition of the *New Zealand Spectator and Cook's Strait' Guardian* expanded on this, explaining to its readers how,

Captain Fitzroy informed the New Zealand Company that they must make a second payment for that which they believed they had fully purchased before, and that when that had been done he would issue crown grants for land. The Company's Agent immediately deposited the money required, in the Bank, in the name of the Protector of Aborigines, where it now remains. Some of the natives received a second payment, and some declined it. No Crown grant for an inch of land was made, and Captain Fitzroy left Port Nicholson.⁵⁶

The most famous example of FitzRoy's land policy is the 'Taranaki Question' where he reversed Spain's 60,000 acre award down to 3500 acres once evidence had been presented by returning displaced members of Te Ati Awa that they had not been consulted about the original purchase, and that they were legitimate land owners.⁵⁷ The *Gazette* of 7 August asked, "Could any thing, under the circumstances, be more horribly despotic and cruel than Governor Fitzroy's Government?" The *Spectator* of 12 October declared, "we are arrived at the conclusion that, as far as the interests of Cook's Straits are concerned, it is no Government at all." In the eyes of Wellington papers, FitzRoy's blunders continued, including the Debentures debacle, the stunting of Wellington's trade through ill-advisedly making Kororareka a free port, and the temporary waiving of the Crown's right of pre-emption. Criticism was also levelled at FitzRoy for his continuation of the Legislative Council in much the same manner as Hobson

⁵⁵ *The New Zealand Gazette*, Wednesday, August 7, 1844, p. 2.

⁵⁶ *The New Zealand Spectator and Cook's Strait's Guardian*, Saturday, October 12, 1844, p. 2.

⁵⁷ *The New Zealand Spectator and Cook's Strait's Guardian*, Saturday, October 12, 1844, p. 2. Ward, 'The Interposing Barrier', pp. 8 – 9.

had done.⁵⁸ The newly formed *Wellington Independent* even labelled the Council, ‘The Collective Wisdom of Old Women’, who had been of no utility to the colonists.⁵⁹ The *Spectator* printed the following satire that well illustrates the feelings of many towards their second Crown Colony Governor:

When Captain FitzRoy stoops to folly,
And finds his Maori pets betray,
While with the money *they're* so jolly,
What art shall wash *his* guilt away?

The only way his shame to cover,
To ease his conscience from the rack,
And give relief to every lover
Of justice, is – *to send him back.*⁶⁰

FitzRoy’s career as Governor of New Zealand culminated in the beginnings of the Northern War at the Bay of Islands, and the huge petition for his recall organised by Alfred Domett of Nelson.⁶¹ By the latter stages of his career, as McLintock notes, some even suspected him of having gone mad.⁶²

FitzRoy did grant, to a certain extent, one fervent wish advocated by the *Gazette* for a ‘Resident’ to be placed in Wellington not as a mere liaison between the settlement and Auckland, but as an actual representative for their interests to the Government. The editor stated, “the duties of the Resident will, we presume, be purely executive. His powers should enable him to perform all such acts as the Auckland Executive would sanction, and which the welfare of the settlement would demand to be performed before communication could be had with the seat of Government.”⁶³ This was a somewhat naïve view of the situation in which FitzRoy was placed. He had no power to authorize such an independent official. Therefore, when FitzRoy awarded the office of ‘Superintendent of the Southern Division’ to Major Matthew Richmond, already the Chief Police Magistrate in Wellington, some colonists were less than happy. Domett’s petition for FitzRoy’s recall clearly outlines their complaints:

⁵⁸ See issues of the *Gazette* in February and March 1845.

⁵⁹ *The Wellington Independent*, Saturday, May 17, 1845, p. 2.

⁶⁰ *The New Zealand Spectator and Cook’s Strait’s Guardian*, Saturday, March 8, 1845, p.2.

⁶¹ Supplement to the *Nelson Examiner and New Zealand Chronicle*, November 1, 1845, Alexander Turnbull Library, qPam 1845 PET 19, 1845.

⁶² McLintock, *Crown Colony Government*, pp. 152 – 153. See also Burns’ account of FitzRoy’s decline and eventual suicide, pp. 269 – 277.

⁶³ *The New Zealand Gazette*, Saturday, November 25, 1843, p. 2.

the inconvenience produced by the distance of the capital [has not been] at all remedied, as was expected, by the appointment of a Superintendent for the Southern Division of New Zealand. For so little discretionary power is allowed by Captain FitzRoy to that functionary at present, as to render his office an entirely useless though expensive sinecure. He cannot authorize the expenditure of the most trifling sum for any purpose of government without a previous application to Auckland.⁶⁴

Therefore, his office was completely useless for the purpose that the *Gazette* had promoted. He could not even supply for the colonists control over the expenditure of their own taxes in the settlement rather than their being sent one-way into Auckland. It was claimed that by creating the office, instead of fulfilling the wishes expressed by colonists on his visit to Wellington to the limit of his powers, it was rather an exercise in deflecting away his personal responsibility for the southern settlements.⁶⁵ To McLintock it seemed “surprising that FitzRoy’s serious efforts to set the colony on its feet should have made him a by-word for political irresponsibility”⁶⁶ And yet this was a consequence of FitzRoy’s tenure as Governor. He inherited the legislature put in place by Hobson’s instructions and the 1840 charter, and although he changed some of the personnel in the offices, they still had the bad reputation nurtured by Shortland’s temporary administration. The newspapers in Wellington never let up their criticisms of the irresponsibility displayed by the Government in Auckland. Perceived irresponsibility was one of the greatest motivations for early calls for some kind of representation in the government of the colony. The experiment of the Superintendent of the Southern Division had failed in the eyes of the Wellington newspapers. It was all linked, in reality, to the policies from the ‘Home’ government. Although the editorial columns of most newspapers recognised and condemned the humanitarian policy of trying to protect Maori interests, this also limited the freedom of action of the Governors. There was only so much they could do within such narrow boundaries. By protecting Maori interests, colonists’ interests were necessarily hamstrung. There was little either Hobson or FitzRoy could do. However, FitzRoy’s replacement, George Grey,

⁶⁴ Supplement to the *Nelson Examiner and New Zealand Chronicle*, November 1, 1845, p. 8.

⁶⁵ See McLintock, *Crown Colony Government*, pp. 165 – 166, *The New Zealand Spectator and Cook’s Strait’s Guardian*, Saturday, October 12, 1844, p.2.

⁶⁶ McLintock, *Crown Colony Government*, p. 166.

was given much wider discretionary powers, and orders for a significant change in the political constitution of the country in order to rectify this – to try and have cake and eat it too, to try and continue policies perceived as protecting Maori from ‘inevitable extinction’, while simultaneously giving colonists at least a semblance of progress in terms of land and political development. This is the subject of chapter three.

However, now we turn to the case of the Municipal Council Ordinance of 1842. This event is relatively obscure within historiographies of the Crown Colony period, but its analysis provides a vital link in understanding any possible future political agitation for representative and responsible institutions, through the rise and development of factional politics in Wellington.⁶⁷ It is also the first example of some form of political autonomy being granted to Wellington, and the first example of autonomous, representative elections. It highlights not only the division of Wellington’s society in terms of support for or against the Company or Government, but also the acceptance of a recognised class structure, between those with ‘Capital’, ‘Commercial’ interests, and the interests of the ‘Working Class’.

⁶⁷ For example, only Watson and Patterson and Beaglehole, on pp. 70 – 78 investigate the Municipal Council in detail, while McLintock mentions it on p. 268 of *Crown Colony Government*, and King, Belich and the *Oxford History of New Zealand* make no mention of it at all.

III

‘Tories Whigs and Rads?’

Class Division and the Municipal Council Election

This section discusses the contemporary division of Wellington’s early colonial society into a three-tiered class structure, which is highlighted through an analysis of the Municipal Council election in Wellington, in 1842. When analysing the class structure of early Wellington, this thesis is not applying what would be largely irrelevant Marxist terminologies. Instead this thesis is merely using terms the colonists themselves had identified and adopted from a conscious analysis of their own society. Jim McAloon has ably discussed the significant points of the ongoing debate surrounding the legitimacy and position of Class in New Zealand historiography in a recent article published in the *New Zealand Journal of History*.⁶⁸ He argues that despite a recent abandonment of class as a focus of study, excepting post 1890 class-consciousness analysis perhaps, the theme of class is relevant to colonial society and has been so from the beginning of European settlement in this country.⁶⁹ Although this thesis does not seek to involve itself in this ongoing debate, and is not focussed on making a specific class analysis, it does concur with this conclusion of McAloon’s.

In quoting class historians E.P. Thompson and Derek Sayer, McAloon advocates the definition of class analysis as not looking at ‘this interest or that interest’, but rather looking at the friction between specific interests, meaning ‘class is not a thing, it is a happening’.⁷⁰ McAloon writes:

“all of which presents an old dilemma: to emphasize the economic structures underpinning a given society and its class structure risks a reductionist approach, while discussing class entirely in terms of the meanings people have attached to the concept risks losing sight of those economic structures and influences. Attempting to cover all bases may well risk straying into ‘bogs of anecdotes of primarily local and antiquarian interest’”⁷¹

⁶⁸ Jim McAloon, ‘Class in Colonial New Zealand: Towards a Historiographical Rehabilitation’, *The New Zealand Journal of History*, 38 (1) April 2004, pp. 3 – 21.

⁶⁹ McAloon, p. 3.

⁷⁰ McAloon, p. 4.

⁷¹ McAloon, p. 4.

This thesis takes the second of these risks, as determining economic factors, although important, would perhaps best be the subject of subsequent study rather than included here. This is due to the thesis' specific aim to explore the perceptions and expectations of colonists in Wellington expressed in relation to the varying authorities in the province, in order to determine the motivating factors for agitation and hence the extent of popular involvement in that agitation. Therefore, it is the meaning people have attached to the class concepts in this period that is of most importance to this thesis, particularly because although three distinct classes were identified, membership to groups using these identities was not class specific.

As early as November 1840, there is evidence of a clear perception of a class division. In a letter to the editor of the *Gazette* entitled 'Letter to the Mechanics and Labourers of Port Nicholson', a correspondent states, "I am neither a proprietor who wishes to enhance the value of his land by the retention of your labour, nor a capitalist who hopes to swell the coffers with its fruits; but one who, like the majority of yourselves, has to depend solely on his own industry for success in the career he has chosen."⁷² The correspondent here identifies three distinct divisions, based on occupation and level of capital to distinguish between the various interests of the colonists of Wellington. The editor repeats this three-tiered distinction in August 1842, when commenting on another correspondent's letter. He stated, "he has substituted for the commercial, agricultural, and working men, the term of Te Aro, Thorndon, and the Beach. Why not take the old cry of Tories, Whigs and Rads? Government, Company, and Colonists? High Church, Low Church and No Church?"⁷³ Despite the editor's derogatory tone towards the correspondents' association of class with area, the class categorisations made by both the correspondent and the editor are remarkably close to the class distinctions identified by M. K. Watson and B. R. Patterson in 1984.⁷⁴ Watson and Patterson identified the:

development of at least three rudimentary socio-economic groupings in the early years of the Wellington settlement. In one group were

⁷² *The New Zealand Gazette*, Saturday, November 21, 1840, p. 2.

⁷³ *The New Zealand Gazette*, Saturday, August 27, 1842, p. 2.

⁷⁴ M. K. Watson, and B. R. Patterson, *A Mirror of early Colonial Society: Reflections on the 1842 Wellington Municipal Corporation Election, Working Paper No. 1 April 1984*, Department of Geography, Victoria University of Wellington: Wellington, 1984.

large purchasers of Company land and the senior officers of the Company. Generously supplied with capital, this privileged clique led a life of relative ease, paying the less fortunate to clear the land for them. The merchants and professionals occupied an intermediate position, some with a sufficient breadth of business interests to be independent of the elite while others depended upon patronage for their advancement. Semi-subsistence farmers, mechanics and labourers formed the third grouping, collectively calling themselves the working settlers.⁷⁵

Using the detailed records left behind of the election of the Wellington Municipal Council, and applying sophisticated mathematical constructs, this study has created a rich analysis of the socio-economic groupings of the settlement, and their political relationships. What it found was that class had indeed been a major factor throughout the process of campaigning for the bill, organising the election and throughout the election itself.

By the consensus of a public meeting, a deputation sent to Governor Gipps in New South Wales on 4 September 1840 was the first instance of a request for the granting of a charter that would create a municipal government for Wellington. This deputation, consisting of R. D. Hanson, a senior New Zealand Company official, G. S. Evans, holder of fifty one land orders, and H. Moreing, holder of fifteen land orders,⁷⁶ was principally formed in order to bring to the Governors attention the situation the Company had been placed in, in terms of land sales, by the securing of the Queen's sovereignty in the colony, as well as discussing the feasibility of being able to control their own local affairs.⁷⁷ It was clearly an initiative of the elites, backed by the local New Zealand Company officials. Despite receiving favourable responses from Gipps, the Bill itself actually came about as a consequence of outside forces, independent from Wellington. The Bill was the result of negotiations between the New Zealand Company and the English Government on the future of the Company after the establishment of the Queen's sovereignty. An agreement had finally been made which provided for a Charter of Incorporation for the Company,⁷⁸ providing both for a co-operation between Company and Governor over the land question and

⁷⁵ Watson and Patterson, p. 4.

⁷⁶ Carman, pp. 14 – 15, Watson and Patterson, pp. 5, 18.

⁷⁷ *The New Zealand Gazette*, Saturday, January 23, 1841, p. 3.

⁷⁸ Burns, p. 166 – 167.

gave Hobson instructions to engage with the Legislative Council to provide measures for Municipal Incorporation.⁷⁹

Therefore, it was left to the inhabitants of Wellington to draft a Bill amenable to their own local interests, to be later presented to Governor Hobson. Subsequently two separate committees were formed in order to make suggestions for the draft. The first represented the 'elites', and the other took the label of representing the 'working men' of Wellington. This was not the first instance in Wellington of committees formed out of public meetings being divided by a perceived class division. In January 1841, two separate committees were formed to organise festivities for the anniversary day celebrations. The second committee, which called itself 'The Democratic, Popular Committee for the Anniversary Day Celebrations' was created in response to the attempted elitism of the first committee, which was dubbed 'The Aristocratic, Select Committee for the Anniversary Day Celebrations'. This committee advocated separate and exclusive celebrations for the 'upper class' of Wellington's new European society.⁸⁰ Subsequent to this controversy, early forms of the Municipal Corporation Bill were disputed in public meetings in May 1841, called to discuss the issues it brought up. For example, the *Gazette* lists the following as important additions to English models of Municipal government, as being necessary and specific for the settlement of Wellington: control over port dues and levies, power of erecting lighthouses beyond the ports limits and gaining control over a local judiciary as dispensing the Queens justice was a fundamental aspect of the machinery of English Government.⁸¹ These meetings were conducted solely from

⁷⁹ Watson and Patterson, p. 5.

⁸⁰ See, B.R. Patterson, *Early Colonial Society Through a Prism: Reflections of Wellington's First Anniversary Day*, Wellington Historical and Early Settlers' Association: Wellington, 1994.

Interestingly, the 'Popular' committee included an extremely high majority of Merchants and skilled workers such as Engineer Rowland Davis and Auctioneer John Wade. This Committee had two members later elected to the Municipal Council and one, William B. Rhodes, who was later elected to the Provincial Council of Wellington in 1853, as well as the House of Representatives and the Legislative Council. The 'Aristocratic' committee consisted primarily of landowners, many of whom served as officers of the New Zealand Company or the Crown Colony Government, including, Francis Molesworth, Capt. Edward Daniell, William Wakefield, and Henry William Petre. Three members of this committee were later elected onto the Municipal Council and two were later elected to the Provincial Council of Wellington after 1853. See Appendix D I.

⁸¹ *The New Zealand Gazette*, Saturday, May 1, 1841, p. 2. These new stipulations were all related to the security of business interests rather than individuals colonists' security and welfare.

the perspective of the 'elites'.⁸² As E. J. Wakefield noted, however, "the workingmen...resolutely claimed and persevered till they obtained their share in the deliberations"⁸³ when eventually, the two committee's merged into a United Committee.⁸⁴

The draft Bill was finally agreed upon and presented to Governor Hobson on Monday, 30 August, and had its important second reading in the Legislative Council, on Wednesday, 29 December, 1841.⁸⁵ The Bill encountered controversy during the debate, as the nominal 'representative' of the southern settlement, George Butler Earp, was vehemently against the adoption of the Bill, claiming that clauses which would provide the Municipal Council with powers to erect beacons, buoys, and lighthouses, would place far too heavy an expense upon the settlement, when such things were, in his opinion, clearly the responsibility of the central Government. He also expressed reservations as to the almost universal suffrage to be used to elect the Council, as well as the granting of unlimited power to levy rates.⁸⁶ He repeated his reservations in a letter to a friend, which found its way to the *Gazette*, and was printed in February 1842, whereby he stated: "indeed, I see further reason than ever for continuing the opinion I have always held, that the Corporation Bill will greatly retard the prosperity of Port Nicholson; its is a system of unlimited self taxation with very limited powers of self government."⁸⁷

For the most part, the proposed legislation received favourable comment in the newspapers. Although some correspondents to the *Gazette*, and the newly formed *New Zealand Colonist*, expressed similar opinions to Earp, that the settlement had not yet obtained the financial freedom necessary to undertake the expense of running their own government.⁸⁸ Most newspaper editorials, however,

⁸² One committee included, Dr. Evans, Messrs. Hanson, Earp, Wicksteed, and John Smith, another consisted of, Dr. Evans, Messrs. White, Hanson, Strang, Wicksteed, Hunter and Earp.

⁸³ E. J. Wakefield, quoted in A.H. Carman, *The Birth of a City*, Wright and Carman: Wellington, 1970, p. 21.

⁸⁴ Carman, p. 22.

⁸⁵ Carman, pp. 28, 34. *The New Zealand Gazette*, Saturday, August 21, 1841, p. 2; Saturday, September 4, 1841, pp. 2 – 3; Wednesday, January 26, 1842, p. 3.

⁸⁶ *The New Zealand Gazette*, Wednesday, January 26, 1842, p. 3.

⁸⁷ *The New Zealand Gazette*, Wednesday, February 9, 1842, p. 3. Earp's official protest in the Legislative Council was printed in *The New Zealand Gazette*, Wednesday, March 9, 1842, p. 3.

⁸⁸ *The New Zealand Colonist*, Friday, August 19, 1842, p. 3, printed a letter addressed 'To the Mechanics and the Working Classes of this Borough' which expressed concern that the Working classes would suffer the most through self taxation to provide the public works which should legitimately be provided by either the Government or the Company, and was merely an avenue

were rife with undisguised sentimentality at the thought of the settlement attaining independence from the Auckland-based government.⁸⁹ The *Gazette*'s editor effused, "The Municipal Corporation Bill is wisely framed....It will empower them to do that which none other can do so well; namely, to manage their own affairs by means of representatives chosen from out of their own body. This is local self-government, the habit of which is the best preparative for national self-government."⁹⁰ The editor of the *New Zealand Colonist* expressed similar hope in the coming of the Council, stating: "this measure will confer upon the community powers of the most useful character, and will afford us the means of urging our wants and interests with far more effect than at present upon both the Government and the New Zealand Company."⁹¹ The idealism expressed in both newspapers reached its height in August of 1842, with the imploring from the *Colonist* for the class division based factions to put aside their differences in order that the 'best' men would be elected to represent the interests of the whole of the community.⁹² The *Gazette* had also earlier implored the colonists to put aside party differences, and instead consider the fitness of the candidates for the role, rather than by promises offered by cliques. The only questions that should be asked of a candidate are, 'Is he honest?' and 'Is he capable?'⁹³ In reality, instead of dissipating in respect and deference to the granting of a great right of English citizenry, the factional politics became more sharply defined, and worse than ever.

Watson and Patterson state that there were two principal political tickets on which the majority of the candidates stood. The 'St Hill' ticket was a 'Wakefieldite' party⁹⁴ of eighteen candidates with no representatives of the 'working class'. This ticket was considered to be "frankly elitist, it viewed the Corporation as a handy extension of the Company's administrative structure, an instrument for obtaining by proxy the powers it had been unable to secure

for those institutions to abdicate their responsibility. The editor's reply, dismissing the claims as irrelevant now that the granting of the Council was assured, appeared on Tuesday, August 23, 1842, p. 2.

⁸⁹ Earp himself acknowledged that his opinions were not representative of the majority of the Wellington settlers in the Legislative Council debate of December 29, 1841 printed in *The New Zealand Gazette*, Wednesday, January 26, 1842, p. 3.

⁹⁰ *The New Zealand Gazette*, Wednesday, February 9, 1842, p. 2.

⁹¹ *The New Zealand Colonist*, Friday, August 19, 1842, p. 2.

⁹² *The New Zealand Colonist*, Friday, August 5, 1842, p. 2.

⁹³ *The New Zealand Gazette*, Wednesday, April 13, 1842, p. 2.

⁹⁴ Meaning that the majority of the candidates were faithful Company supporters.

legislatively.”⁹⁵ Even if the Company supporters involved in promoting this ticket’s candidates were not actively seeking a monopoly on power as Watson and Patterson’s quote may suggest, it was certainly seen as a way of breaking the shackles placed on the operations of the Company since the signing of the Treaty of Waitangi, and the initiation of the Crown Colony Government in Auckland. The ‘Workingmen’s’ ticket was largely run by John Wade,⁹⁶ and Rowland Robert Teape Davis,⁹⁷ with the help of W. Cooper and G. Scott. Its origins could be traced to the adoption of bodies like the ‘Mechanics Institutes’, for the education and ‘betterment’ of the working classes in Wellington, based on the English model⁹⁸. Watson and Patterson state that, “the working settlers as a group were convinced of the need for balance, and consequently devised a slate of 18 candidates which included men from each class as well as sundry independents and even a spokesman for Crown Colony government.”⁹⁹ This is evidenced in the great public meeting of the working classes, held on August 15, 1842, where Cooper stated, “They had divided the community into three classes – landed, commercial, and working – and endeavoured to make such selection from each, as would fairly represent each community in the Council, so that no class should command a preponderance in the Council.”¹⁰⁰ Therefore, whilst it seems that the elites of St Hill’s ticket believed they alone were qualified to hold power, not all elites thought so. Some seemed to agree with the editor of the *Gazette*, that the classes were inseparable as each needed the other, and instead stood for election on the workingmen’s ticket.¹⁰¹

⁹⁵ Watson and Patterson, p. 10.

⁹⁶ During his life, Wade was variously an auctioneer, whaling master, merchant, company promoter and land subdivider. Watson and Patterson, p. 10.

⁹⁷ Watson and Patterson state that Davis was “by training as an engineer, was by inclination a colonial publican, and had been a trade union organiser in Britain.”, p. 10. See also his biography by Rachel Barrowman, ‘Davis, Rowland Robert Teape, 1806/1807? – 1870’, *Dictionary of New Zealand Biography*, updated 31 July 2003, <http://www.dnzb.govt.nz/>

⁹⁸ The Mechanic’s Institutes began in London in 1824, as a form of organised education for adults of the poorer classes. John Lawson and Harold Silver, *A Social History of Education in England*, Methuen: London, 1973, pp. 260 – 261.

⁹⁹ This ‘spokesman’ was R.D. Hanson, who was treated largely as a pariah in Wellington.

¹⁰⁰ *The New Zealand Gazette*, Wednesday, August 17, 1842, p. 3. See also, *The New Zealand Colonist’s* account of the same public meeting on Friday, August 19, 1842, p. 2.

¹⁰¹ The editor commented on the idea of secret ballots by stating there was no need for a secret ballot for the election of the Municipal Corporation because, “No one class of society is absolutely independent of the other classes, but neither has any one the power of dictating to the others. Therefore, no apology for a dishonest vote can be accepted.” *The New Zealand Gazette*, Wednesday, April 13, 1842, p. 2. See Appendix A III for a list of names of those who stood for election on each ticket.

Once campaigning began, it seemed that all the tricks in the 'how to win elections' book were employed. There were many accusations levelled against the Company candidates that the 'buying' of votes was occurring, whereby a candidate would offer to pay the one pound registration fee for a less fortunate colonist in order to secure a vote for them at the ballot box. Another tactic employed was threatening to remove patronage from those with dependent commercial enterprises if their votes were not cast in a particular candidates favour.¹⁰² Sloganeering was also quite evident throughout the campaign, including 'No common Mechanic in the Council', 'Oppose Wade and the unwashed', and oppose 'the agents of absentee landlords'.¹⁰³ Passions were raised in debate on the right candidates for the job, evidenced by an incident in which Dr. Evans, who was not a burgess, attempted to speak at the public meeting of burgesses on Wednesday, September 21, 1842,¹⁰⁴ in order to denounce the candidacy of St Hill and Hanson, who stood on opposing tickets. The *Colonist* reports:

Dr Evans, however, maintained his position on the table, amidst the most deafening uproar; cries of 'No burgess', 'off off', 'Turn him out', 'Hear the Doctor' &c., &c....The uproar still continued unabated, when suddenly we saw the Doctor give way, as if seized by some one by the legs – for a second he tottered, and then fell back over the heads of those near, and was lost to sight amidst the sea of heads and arms. A scene now ensued which baffles all description. The Doctor struck out furiously around him on all sides – and presently he and the person with whom he was grappling were carried bodily out at the upper end of the room...¹⁰⁵

Evans later returned and was allowed to speak his peace. The *Colonist* commented, not on his behaviour, but on his argument against St Hill as a Company man and representative of the absentee landlords, and against Hanson as a Government supporter, stating that: "the learned Doctor would exclude everybody who has any connexion with the Government, the Company, or the Absentees; we on the contrary would have in the Council representatives of

¹⁰² Watson and Patterson, p. 11; *The New Zealand Colonist*, Tuesday, September 6, 1842, p. 3; Tuesday, September 13, 1842, p. 3; Tuesday, September 20, 1842, p. 2.

¹⁰³ *The New Zealand Colonist*, Friday, September 23, 1842, p. 3; Watson and Patterson, p. 11 – 12.

¹⁰⁴ Reported in both, *The New Zealand Colonist*, Friday, September 23, 1842, p. 3, and *The New Zealand Gazette*, Saturday, September 24, 1842, p. 2.

¹⁰⁵ *The New Zealand Colonist*, Friday, September 23, 1842, p. 3.

every class, assured that thus alone can the interest of the community, which is also the interest of every individual, be promoted and secured.”¹⁰⁶

Thus, debate for or against the ‘elites’, or ‘Company men’ clearly still existed. Hanson was the only openly pro-government candidate, and the debate over the irresponsibility of the Crown Colony government did not really feature here. The election was more about gaining a measure of independence from that government, centred in Auckland. While the elitist nature of St Hill’s ticket further stirred the debate on the Company men, absentee landlords, and the inability to make progress on the land question, the Workingmen’s ticket had attempted a more holistic approach. It was not designed as an overt and individual class statement, rather, it was about rejecting class monopoly in government, whether that be by absent officials in a far away settlement like Auckland, or the men of St Hill’s ticket as the self styled elites of the Wellington community. On polling day, it seemed that most burgesses agreed with this sentiment and recognised the need for balance in the council in order that all interests in Wellington, whether ‘elite’, ‘commercial’ or ‘working’, were represented.

The election was conducted on 3 October 1842. Fierce electioneering continued with candidates attempting to sway votes in their favour up till the last possible moment. Burgesses could nominate whomever they liked into the council, voting for up to eighteen candidates. The campaigning by both tickets was effective enough to ensure that all but one of the twelve elected Aldermen had previously pledged allegiance to one or both tickets, making the results announced by Returning Officer Murphy, surprisingly even. Not including the five candidates who stood on both tickets,¹⁰⁷ one independent, three from the ‘workingmen’s’ ticket, and three from ‘St Hill’s,’ were elected.¹⁰⁸ The *Gazette* proudly stated that no fewer than 4000 votes had been cast by Wellington’s burgesses, for fifty-nine different candidates.¹⁰⁹ Watson and Patterson’s mathematical analysis¹¹⁰ concluded:

¹⁰⁶ *The New Zealand Colonist*, Friday, September 23, 1842, p. 2.

¹⁰⁷ Hunter, Lyon, Fitzherbert, Molesworth, and Johnson.

¹⁰⁸ Wade, Scott and Dorset for the Workingmen, Waitt, Guyton and Hort, for St Hill, and Jenkins, as an Independent. See also Carman, p. 97.

¹⁰⁹ *The New Zealand Gazette*, Wednesday, October 5, 1842, p. 2.

¹¹⁰ Conducted through pages 12 – 14 of Watson and Patterson.

The majority of successful candidates received across the board support from all classes. All successful candidates obtained at least 40 percent of the working class vote; Jenkins alone depended solely upon the working class for his success....predictably, the elite did not support the 'unwashed' though the rest of the electorate clearly regarded balance as all important and were not yet prepared to accept political extremism.¹¹¹

Watson and Patterson claim their analysis uncovers evidence for an 'embryonic party structure' based on the division of interests inherent to the two opposing tickets socially divided composition.¹¹² Their portrayal of the class divided factions as more accurately being a political division than a class war seems closer to being an accurate depiction of the conflict. There is a confusing blur between the commercial and working class distinctions of the tripartite class divide used so willingly in the newspapers to describe the social make-up of Wellington. Of the 18 men on the working class ticket, seven were merchants, two were highly skilled professionals, one was a Newspaper Proprietor, one a Landowner/Farmer, two were Store Keepers, two were Auctioneers. The final three were of an unknown occupation. These hardly constitute a 'working class' of labourers. In Patterson's analysis of the Anniversary Day controversy, he noted, "the true division was between the small landowning elite introduced by the Company and an emergent group of Merchants, many of whom had arrived independently."¹¹³ He further noted that there seemed to be no room for the working class to be really involved in any of these committee's, which were so prominent in Wellington in the early 1840s.¹¹⁴

This period is thus characterised by an opposition to an assumed right to lead made by 'elite' landowners who acted in the role of a 'new aristocracy' in Wellington. However, it is only a kind of working class rhetoric that is used in this opposition rather than an actual widespread involvement of those who fell within the description of the working class of Wellington. Thus the working class oppositional committee's and the working class ticket on which candidates stood for election was in reality more closely a 'middle class', commercially driven opposition. Patterson even went so far as to say that the merchants would become

¹¹¹ Watson and Patterson, p. 14.

¹¹² Watson and Patterson, p. 14.

¹¹³ Patterson, *Early Colonial Society Through a Prism*, p. 18.

¹¹⁴ Patterson, *Early Colonial Society Through a Prism*, p. 19.

Wellington's new elite by the late 1840s.¹¹⁵ However, the complexities of this relationship are not the focus of this thesis. Instead, this thesis asks how representative was the construct of the municipal council of the wider Wellington community, and what did this mean for the later development of calls for representative and responsible Government?¹¹⁶

Wellington's European population in 1842 has been estimated at 3800, of that number, around 1000 were males of eligible age to register as burgesses in order to be able to vote in the Municipal Council elections. Of that 1000, a mere 352 men registered.¹¹⁷ This is surprising when consideration is given both to the background knowledge, and in some cases participation in, the social reforms in England during the 1830's, and the much wider franchise available to people in this election. It would be understandable to have thought many more individuals would have taken the opportunity to vote in the settlements first election for a self-governing body. There is no single explanation for this. Watson and Patterson hypothesise that the one-pound registration fee was for most too excessive, meaning the legislation itself discriminated against the majority of colonists in Wellington, and instances of bribery cannot have been widespread.¹¹⁸ Perhaps others were put off by the explicit factionalism, preferring not to be involved, or perhaps the majority of the 'workingmen' were too busy with eking out a day-to-day existence. Whatever the reason, the reality was that 352 men decided, for a 3800 strong population, who would govern the local affairs of the settlement. Therefore, the Council was only truly representative of those who could afford, or those who chose to pay the registration fee. The 'workingmen's' committee was constituted of men who seemed to bridge the indistinguishable gap between the 'commercial' and 'working class' division. Most were 'self-made men' who held an affinity with their roots, and who sought to represent those interests in the Council. Whether or not they would have done so is impossible to now determine, for like the Council of Colonists before it, the

¹¹⁵ Patterson, *Early Colonial Society Through a Prism*, p. 28.

¹¹⁶ For more analysis of the complexities of the relationship between the classes of Wellington, see Watson and Patterson, as well as Diana Beaglehole in her work on political leadership in Wellington, in David Hamer and Roberta Nicholls (eds.), *The Making of Wellington, 1800-1914*, Victoria University Press: Wellington, 1990, pp. 165 – 193.

¹¹⁷ Watson and Patterson, p. 6.

¹¹⁸ Watson and Patterson, p. 6.

Municipal Council was disestablished by a ruling from the Home Government in September 1843.¹¹⁹

The disallowance of the 'Enabling Ordinance' culminated in a series of problems identified by Watson and Patterson, including a constitutional debate surrounding the election itself, which was held in October, days after Hobson's death, instead of the planned December election, placing in doubt the legitimacy of the present Aldermen. The issue was still being debated when the Council was disbanded. The Council's grand public works had also not been implemented as the survey process outlasted the Council itself, and as Earp had feared, there was insufficient revenue in any case.¹²⁰ Reaction to the Council's disbandment was muted. The only operating newspaper in September 1843 was the *Gazette*, and the disbandment was barely mentioned. Announced in Wednesday's edition, the reasons were stated in Saturday's edition, which stated "Another law may be enacted, by the Local Legislature, for the same general purposes, excluding these objectionable purposes."¹²¹ However, this tiny hope was never fulfilled, as, although a new ordinance was prepared, it never received assent from the 'Home Government'.¹²² A new distraction had occupied the imagination of the settlement by this time in any case. The Wairau affray was widely publicised in Wellington's newspapers, the consequences of which were a re-focusing of criticism against the irresponsibility of the Governor for not providing for, or allowing the colonists to supply their own protection.

In summary, the early 1840s were a period of birth, followed by an intense political growth and development in the European settlement of Wellington. Of the early political influences, or forms of representation and authoritative responsibility available; the Company, the Governors and the experiment in self-government; none were representative of the growing community and therefore, none were accountable to the Wellington colonists.

¹¹⁹ It was disallowed on the count of issues surrounding works such as lighthouses, which were some of the very points Earp had raised in his protest against the ordinance. By stating what the colonists did not want to hear, this officer, nominated by Governor Hobson to represent the interests of the Southern colonists, it could be interpreted that Earp was in actuality acting responsibly for his 'constituency' by advocating an unpopular yet beneficial policy.

¹²⁰ Watson and Patterson, pp. 15 – 16.

¹²¹ *The New Zealand Gazette*, Saturday, September 30, 1843, p. 2.

¹²² Carman, pp. 111 – 112.

Therefore, each displayed a poor representative quality and were not responsible enough from the perspective, at least, of the Wellington colonists. What is evident however was that there were deep divisions and cliques centred on political allegiances, whether it was to the 'founding fathers' of the Company, the power and sovereignty of the Queen's Crown Colony Government, or between a three-tiered system of class identities. These early forms of Government, and action taken in support or in opposition to it, created a nurturing environment for Wellington's political development. These early experiences of governance helped form an awareness of what was needed, in order to develop what many wanted for the settlement – control over their own affairs. However, this was by no means a 'popular' undertaking. There was a relatively low participation rate in the election for the Municipal Council, which is the one event during this period that enables an analysis in popular involvement in political issues in the region. The next time such a clear picture can be analysed is in 1853 during the elections for the first representative parliament for the colony.

The arrival of George Grey in 1845, created a new era of political fervour for Wellington in more ways than one. Grey had been given more power, the Company's influence had begun to wane, and the majority of its early leaders from both the Council of Colonists and the Municipal Council, had by this time died or moved from Wellington. However, it would be an evolution of these early cliques that would form the basis of factions for and against active agitation for a better form of government in the colony, and an analysis of the social construct of these factions is the primary focus of the next chapter, in order to assess if there was an increase in popular involvement in Wellington's political scene.

THREE

A Way Forward from an Inadequate Past

1846 - 1850

Chapter two highlighted and examined the backdrop of political development in Wellington from the first European colonists' arrival to the eve of Captain George Grey's first term as Governor of New Zealand. It showed how some colonists had become frustrated with what they perceived as a group of 'irresponsible' officers, whether they were employees of the New Zealand Company or of the Crown Colony Government, and that their frustration was due largely to the lack of local representation in wider governing bodies. Feelings of frustration were given particular vent through the pages of the two competing newspapers, which had by this period evolved into the *Wellington Independent* and the *New Zealand Spectator*, each of which would eventually take up the cause of one of the two factions evolving in Wellington. These opposing factions were based during the early 1840s on an underlying class structure, with the labels of 'elite' versus the 'working class men' being adopted despite not necessarily being an accurate description of their actual social makeup. During the period between the 1846 and the 1852 constitutions, two factions still existed involving a largely new group of politically minded and prominent men. These factions had evolved from being loosely socially-defined, to almost solely politically-based. The principal question with which they were concerned was representative government, and this issue was the basis for all friction between the two groups.

The purpose of this chapter is to examine the various measures suggested as a way forward from an inadequate past form of governance. The intent is to assess the representative quality of these offers in order to establish whether the perceptions of failed representation perceived by one of the factions were widespread enough to apply the label of 'popular' on their agitation for representative and responsible government. This is done, firstly, by analysing the response of Wellington's colonists to the Charter of New Zealand, generally referred to in this chapter as the '1846 constitution'. It focuses on Grey's initial

instructions and the changes to the structure of government in the colony the constitution proposed, which promised a complicated form of representation. This also includes reaction to the constitution from the Wellington newspapers. Secondly, the chapter discusses the consequences of Grey's suspension of this constitution and his attempts to adjust the existing form of Crown Colony Government into a workable system of governance, suitable both to him and concerned colonists. In particular, it examines his revival of the Legislative Council with nominee members, which was supported by one faction and reviled by another in Wellington. Thirdly, the chapter assesses the position of the two factions during this period, analysing the degree to which their stance may have been representative of general opinions prevailing in Wellington.

The key questions which guide this chapter are, what offers of representation and responsibility, whether real or pretended, were explored during Grey's governorship as a way forward from a perception of an inadequate past? Due to the fact that two quite distinct political factions were developing in Wellington, to what extent were each representative of the general public? What degree of authoritative responsibility was evident in Wellington, either by Government or other bodies claiming to be the representatives of the people?

I

'A Destructive Distillation?'

Governor Grey and the '1846' Constitution

Six months passed in the colony between FitzRoy's recall and the announcement in the *Spectator* of Captain George Grey's appointment as Governor of New Zealand.¹ With the announcement came some editorial speculation in the Wellington newspapers as to what kind of Governor Grey would be, and the likely benefits the colony (in other words, Wellington) could expect from the execution of his office as head of the crown colony system of government. The editor of the *Wellington Independent* commented:

An old Colonist, at present in England, used to say that the interest of the settlers in Cook's Straits had been 'crucified between two thieves', meaning the Local Government on the one hand and the New Zealand Company on the other. In some respects there was perfect truth in this assertion. From previous knowledge, and from what Captain Grey has done in South Australia he would appear to be the man above all others able and willing to remedy the evils that gave rise to this strong expression.²

Both newspapers reported him as being somewhat of a 'new hope' for a colony arrested by internal problems of a varied, yet interconnected manner. Grey initially vindicated this hope by overseeing a successful campaign against 'Maori rebels' in Kororareka and making a concrete commitment towards changing the Crown Colony system that was perceived as having been abused by past governors into something new and workable. The purpose of this section is to analyse Grey's '1846 constitution', which was his first significant act towards changing the construct of government for the colony. This includes an assessment of the extent to which the constitution provided meaningful political power for the European settlers, in order to discover the basis of motivation behind future activism for something different.

There was a general anticipation that soon after Grey's arrival he would be instructed to begin instituting measures for self-government. The editor of the

¹ *The New Zealand Spectator and Cook's Straits Guardian*, Saturday, November 8, 1845, p. 2.

² *The Wellington Independent*, Wednesday, November 26, 1845, p. 2.

Spectator proclaimed, “the time is now arrived when the whole plan upon which the Government of this colony has hitherto been conducted, must be remodelled, and when a remedy for the evils we have so long endured from the great distance of the nominal capital, must be applied.”³ The newspapers had good reason to suspect a change in the form of Government in the colony. In addition to the reports of active debates in the English Parliament on the future of government in New Zealand,⁴ soon after his arrival, Grey himself had written to the Colonial Secretary, stating that a change in the constitutional form of the colony was necessary in order for him to continue to govern.⁵

In a despatch from Colonial Secretary Earl Grey to Governor Grey which accompanied the constitution, it is stated that the aim of the Act was that the change “insisted on by all parties to the discussion...should be in the direction of calling the settlers to participate much more largely in the business of legislation and local self-government. The accompanying Act is accordingly framed on that principle.”⁶ Whilst the Act certainly provided the means for colonists in New Zealand to gain a measure of self-government, it was so complicated that it was widely considered to be entirely unworkable, and a great disappointment to “all classes of the community.”⁷

At the provincial level, the constitution decreed that all existing districts were to be erected into boroughs, modelled on English examples, each with a Municipal Government consisting of an elected council of Aldermen and a Mayor. The colony was to be split into two or more provinces, each of which would have an assembly consisting of a Governor, Lieutenant Governor, Legislative Council and House of Representatives. The two or more Legislative Councils would consist of members chosen by ‘Her Majesty’, in other words, by

³ The editor’s opinion was here inextricably connected to the belief that the seat of government must be moved from Auckland to Wellington. *The New Zealand Spectator and Cook’s Straits Guardian*, Saturday, November 15, 1845, p. 2.

⁴ Reports from the sitting of parliament in England in mid-1845 had been trickling in to the settlement during the six-month interval between Governors, showing general support of the principles of ‘self-government’ for New Zealand by many Members of Parliament. Charles Buller was of course the colony’s principal champion of self-government. He stated for example, at the House of Commons, Monday, July 22, 1845, that “it was no satisfaction that Captain Fitzroy was recalled, unless they had the positive assurance of a change in the system.” Reported in *The New Zealand Spectator and Cook’s Straits Guardian*, Saturday, December 13, 1845, p. 3.

⁵ *The Wellington Independent*, Wednesday, February 10, 1847, p. 3, and the *New Zealand Spectator*, Saturday, February 6, 1847, p. 2 – 3.

⁶ ‘Papers Relative to the Affairs of New Zealand: Correspondence with Governor Grey’ *BPP* Vol. 5, Session 1846 – 1847, p. 520 [64].

⁷ *The New Zealand Spectator and Cooks Strait Guardian*, Wednesday, February 10, 1847, p. 2.

her representative, Governor Grey and his successors. Each House of Representatives would consist of members that would be elected by the Mayor, Aldermen and common councils of the Municipal Governments. In addition to these provincial assemblies, the constitution also provided for the creation of a 'General Assembly' based on the same structure. It would thus consist of the Governor-in-Chief, a Legislative Council and a House of Representatives. Here, both the Legislative Council and the House of Representatives would consist of members of the equivalent provincial body.⁸

Both newspapers had received an earlier draft of the constitution from the Sydney newspapers, which was largely the same as the final version.⁹ Thus, there was time to consider its clauses and implications before the final version was printed and officially proclaimed. Their initial perception was that the colony was far too small and underdeveloped financially to cope with such complicated governmental machinery. This became one of the principal concerns discussed within the pages of both newspapers. In February 1847, the *Spectator's* editor believed that Wellington colonists did not "want a complicated machinery of government and expensive corporations; but a good government in which the settlers can feel that they have an interest and bear a part, instead of, as at present, being cyphers [sic] in the account."¹⁰ The *Independent's* first response to the proposed legislation appeared in January 1847 and stated:

The best thing that can be done with the new act, for this colony, is to repeal it. A lot more bungling piece of British Legislation it would be difficult to find. Its machinery is too complicated. It throws too much power into the hands of the minister of the day, and under the guise of popular institutions, will enable the Crown to establish a system of rotten boroughs, a matter far more galling than a liberal despotism such as the colony is now under.¹¹

⁸ *The Wellington Independent*, Wednesday, January 27, 1847, pp. 3 – 4, and Saturday, June 12, 1847, p. 2. 'Papers Relative to the Affairs of New Zealand: Correspondence with Governor Grey' *BPP* Vol. 5, Session 1846 – 1847, p. 520 [64], pp. 528 [72] – 531 [75]. *The New Zealand Spectator and Cook's Strait Guardian*, Saturday, July 3, 1847, p. 3, and Saturday, January 29, 1848, p. 3. Draft bill appears in the in *the Spectator* of January 27, 1847, p. 2. For publication of the Bill's passing and amendments see the *Spectator*, January 30, 1847.

⁹ The only difference between the early draft discussed at length in the newspapers, and the final Act was that in the draft version, members of the General Legislative Council were to be nominated by 'the Crown', but in the final version, the members were to be elected in from those already serving on one of the Provincial Legislative Councils.

¹⁰ *The New Zealand Spectator and Cooks Strait Guardian*, Saturday, February 6, 1847, p. 2.

¹¹ *The Wellington Independent*, Wednesday, January 27, 1847, p. 2.

This was a significant and often repeated criticism, the individual points of which would plague the constitution right up to its eventual suspension in 1848.

In addition to concerns over its complexity, a second common criticism of the constitution was that the actual representative part of the system of government to be created was only apparent in the lowest level.¹² In fact, the *Spectator*'s editor described the constitution as having all the semblance of a constitutional government but without the substance, likening it to a kind of distillation of representation, from the municipal bodies all the way through to the general legislature. In his opinion, however, it was a *destructive* distillation.¹³ In an earlier editorial it was stated that, "its machinery appears rather complicated, and that the clause which restricts the elective principal to the corporations of each province, and that which provides for the civil list...appear on the face of them objectional measures."¹⁴ The editor of the *Independent* disliked the Municipal level in particular for similar reasons. He saw the constitution as providing only an indirect form of representation by having the general public involved only at government's lowest level. This led the editor of the *Independent* to comment:

The New Zealand Government Bill advocates and upholds aristocratic institutions in all their bearings. We have yet to learn the extent of suffrage granted to the settlers in the election of members of Municipal Courts. The Members of the so-called local Representative Assemblies are to be elected – not by the people, but – by the Mayor, aldermen and common-councilmen of the various municipalities. This is wrong in principle, and will prove worse in practise. Ministers are about introducing into these islands the old, worn-out system of 'rotten boroughs'.¹⁵

He admitted that the municipal councils via the mere fact that they were elected by the people would "retain some check on the superior councils, yet that check will not be nearly so efficacious as if it were more direct."¹⁶ These were

¹² See *The Nelson Examiner*, Saturday, June 26, 1847, pp. 1 – 2.

¹³ *The New Zealand Spectator and Cooks Strait Guardian*, Wednesday, February 10, 1847, p. 2.

¹⁴ *The New Zealand Spectator and Cooks Strait Guardian*, Wednesday, January 27, 1847, p. 2.

¹⁵ *The Wellington Independent*, Wednesday, February 3, 1847, p. 2. The concept of 'rotten boroughs' was discussed in Chapter 1.

¹⁶ *Nelson Examiner*, Saturday, June 26, 1847, p. 2. The editor of the *Wellington Independent* believed the municipal governments had no business meddling in the provincial assemblies, stating, "...those men who are returned with the highest number of votes, [should] represent them in the Assembly, without interference from the Corporation." *The Wellington Independent*,

sentiments that were mirrored in an article from the *Sydney Morning Herald*, printed in the *Spectator*, which was concerned about the constitution as it was widely rumoured to be the basis of similar legislation for Australia. Its editor also held concerns about the limited representation available to the public, believing that the members sent to the Provincial Councils would be “the spokesmen, *protégés*, and reflections, not of the local district council *in toto*, nor of the whole of the residents of the borough to which it belongs, *but only of the prevailing party in that council.*”¹⁷ This was, in essence, a “decomposed and flavourless ingredient; not a fair representation of the ultimate constituency”¹⁸

The *Spectator* concurred with this as a possible negative consequence of being given a limited form of self-government through local representation. The complicated machinery of government proposed by the constitution opened the door for political corruption, in the sense that, as the elections for the higher tiers of government were not determined by the public, they were thus divorced from the process, and it was likely that their interests would not be the motivation behind the choices made for advancement. Instead, there was the possibility that friendships, or tenuous political alliances between aldermen trying to advance personal interests, would be determining factors in elections for higher office rather than any concern for the interests of the wider public. The *Spectator* stated, “Any influence that [an elector] can possibly exercise over the choice of representatives is so remote and uncertain as to render it not worth his while to take any trouble in the matter, Then again, the representatives will be apt to consider themselves responsible not to the great mass of the community, but to the aldermen electors.”¹⁹ In other words, the construct of the machinery of government did not promote political responsibility in the people’s

Saturday, January 29, 1848, p. 2. This, he was convinced, would ensure a system free of political corruption and ensure a more direct responsibility of representatives to their electors at the higher levels of government. The theory was flawed however in the sense that the boroughs were likely to have different populations meaning some corporations would have members with higher election figures than others, and so his system would need a set of guidelines to ensure the correct number of representatives for the higher levels of government was ensured, just as the Reform Act of 1832 had secured for England.

¹⁷ *The New Zealand Spectator and Cooks Strait Guardian*, Wednesday, September 15, 1847, p. 2. A further concern was the possibility of provincial rivalries and contradictions developing through the provision of each borough making laws for itself, which Earl Grey hoped would be counteracted by the presence of a larger provincial authority over the municipal councils, see ‘Papers Relative to the Affairs of New Zealand: Correspondence with Governor Grey’ *BPP* Vol. 5, Session 1846 – 1847, p. 521 [65].

¹⁸ *The New Zealand Spectator and Cooks Strait Guardian*, Wednesday, September 15, 1847, p. 2.

¹⁹ *The New Zealand Spectator and Cooks Strait Guardian*, Wednesday, February 10, 1847, p. 2.

representatives, placed too much power in the 'minister of the day', and created a ripe breeding ground for possible political corruption. The constitution thus provided "too much of the machinery and too little of the principle of representative government."²⁰

A third early concern involving this 'guise' of representative institutions, centred on the kind of franchise to be instituted for the limited form of representation that was available under the constitution. There was a concern raised in the newspapers that the limited representation offered by the constitution would be further limited by a property qualification for electors. The 'evil' inherent in a 'proprietary government', as seen by the editor of the *Independent*, was the simple fact that the franchise of an election based on this principle centred on how much property a person possessed, which was hardly likely to mean that the whole of the settlements people would be represented by those elected. There was the perception that as a consequence of this system, only the powerful minority of landed interests, connected perhaps with the old New Zealand Company faction, would benefit from the small measure of representation granted to the colony.²¹ According to the *Independent*, "it has had the effect of binding the settlers together, who, we are convinced, will resist to the uttermost any attempts of the Company to impose upon them, the worst of all evils, a Proprietary Government....we will not submit."²² A correspondent to the *Independent* was concerned enough to write, "Too long you have allowed a small section to manage your affairs; too long have you been victimized between the Government and the New Zealand Company....form yourselves into an 'Anti Proprietary Government Association'...Organize! Organize!! Organize!!!"²³ However, this appeal went unrecognised.

²⁰ *The New Zealand Spectator and Cooks Strait Guardian*, Wednesday, February 10, 1847, p. 2.

²¹ The editor further commented, "The first duty of Government should be to watch over, protect, and foster the interests of the entire community over which it has control. No section or party however powerful, whether as regards numbers or wealth, ought to be considered as against the general body. This portion of New Zealand has been under the control of a Company hitherto all powerful, who have adopted and carried out a system injurious in many respects more especially as tending to keep the mass in a state of general dependence on the caprice of the few." *The Wellington Independent*, Wednesday, March 13, 1847, p. 2.

²² *The Wellington Independent*, Saturday, January 2, 1847, p. 2. See also *The Wellington Independent*, Wednesday, January 6, 1847, p. 4, for an 'Essay on Corporate Bodies', explaining how 'evil' they are, and *The Wellington Independent*, Saturday, January 9, 1847, p. 3, for a discussion on proprietary government in the context of the United States of America.

²³ 'An Old Colonist' in, *The Wellington Independent*, Wednesday, January 20, 1847, p. 2.

The fear that this kind of franchise would be introduced remained right up to the eve of the suspension, where the editor of the *Independent* commented, “we will never admit that men are to be excluded from giving their voice in the election of members of Assemblies, or what not, simply because they do not possess ten pound freeholds or twenty pound households.”²⁴ This however was merely a rumour based on old facts. In 1845, the New Zealand Company had been planning a charter for a government with a ‘proprietary’ base, rumour being fuelled by comments in the Company’s twentieth report that they sought an electoral franchise of an ‘Aristocratical’ nature. However, the Colonial Office had given their plans little consideration.²⁵

The issues of adequate representation and the responsibility of their representatives were clearly important issues to each of the editors, and were thought to be of great importance for the public to consider. This was primarily due to the perceived inadequacies of the past, during the governorships of both Hobson and FitzRoy, where officers of the Government and the Company alike were considered to be acting ‘irresponsibly’. The constitution was supposed to be a way forward from that inadequate past, and despite all the flaws identified in it, and its low representational quality, both editors advised that it should be accepted without delay as a first step towards self-government and the further development of Wellington, as well as the rest of the colony.

The editor of the *Independent* stated that despite its defects and the fact that it glaringly violated the true principles of what constituted a Representative Government, “still the extinction of the present despotism will be hailed with feelings of the liveliest satisfaction by the vast majority of the settlers”²⁶ The *Spectator* expressed a similar opinion, stating:

Doubtless many of the provisions of the new constitution may be found to work imperfectly, and to require alteration and revision, but the necessary alterations will more readily suggest themselves after a trial has been made of its practical working. Let a beginning be made, for we suspect that in this as in many other cases the great difficulty consists in making a beginning.²⁷

²⁴ *The Wellington Independent*, Saturday, April 1, 1846, p. 2.

²⁵ See ‘Copy of Correspondence between Her Majesty’s Secretary of State for the Colonies and the New Zealand Company, relative to the establishment of a Proprietary Government in the Islands of New Zealand.’ *BPP* Vol. 4, Session 1843 – 1847, pp. 493 [3] – 500 [10].

²⁶ *The Wellington Independent*, Wednesday, September 22, 1847, p. 2.

²⁷ *The New Zealand Spectator and Cooks Strait Guardian*, Saturday, October 30, 1847, p. 2.

Warm feelings towards the constitution were sparked by the lack of information from Auckland as to whether or not it would be proclaimed by Grey at all. Concern was at its height, when the *Independent* reported that many settlers felt some anxiety as to the fate of the constitution, during September, October and November of 1847, just before Grey proclaimed the constitution and set a January 1, 1848 inauguration date.²⁸ With the swearing in of Grey as the Governor-in-chief of New Zealand on that date, a relieved editor of the *Spectator* declared, “a beginning has been made, the first step has been taken under the new order of things, but much more must be done before any beneficial results can flow from this measure.”²⁹ Between January and the suspension of the constitution, announced in April 1848, there was little evidence of progress in Wellington of the constitutions inauguration other than the arrival of Lieutenant Governor Eyre and confirmation of the division of the Islands of New Zealand primarily into New Munster and New Ulster.³⁰ The suspension finally put to rest these anxieties. The constitution would not be instituted any further, and the Wellington colonists, along with the rest of New Zealand, would have to wait for self-government. All that could be done was to wait and see what Grey provided in terms of new governmental machinery for the colony, as he had already admitted that the old system was not working for him or the colony, yet the Home Government’s version of how things should be was deemed to have been equally unworkable.

In a rare assessment of public opinion in Wellington beyond the confines of the newspapers, the editor of the *Spectator* commented:

²⁸ *The Wellington Independent*, Wednesday, October 27, 1847, p. 2. The *Spectator* also worried about the fate of the bill, speculating “from the numerous delays that have occurred in bringing the Charter into operation, that the New Constitution is not regarded with especial favour by his Excellency”, *The New Zealand Spectator and Cooks Strait Guardian*, Saturday, January 1, 1848, p. 2. The *Independent* wondered why Grey was continuing with passing legislation through the old Legislative Council when he had the power to institute a General Assembly that would be made up of people more familiar with local conditions than officials of the past vein in Auckland would be. *The Wellington Independent*, Wednesday, November 10, 1847, pp. 2 – 3.

²⁹ *The New Zealand Spectator and Cooks Strait Guardian*, Wednesday, January 12, 1847, p. 8.

³⁰ The boundary line between the two new provinces ran due east from the mouth of the Patea River. A.H. McLintock, *Crown Colony Government in New Zealand*, R.E. Owen, Government Printer: Wellington, 1958, p. 214. See Constitution Act in *BPP*, Vol. 5, 1846 – 1847, pp. 528 [72] – 529 [73] and Governor’s Instructions in *BPP*, Vol. 5, 1846 – 1847, pp. 534 [78] – 535 [79].

The New Constitution as contained in the Charter and Instructions cannot be said to have excited any very great sensation in the colony. By many it was viewed either with indifference or dislike, and those who were desirous of seeing it in operation were influenced less from admiration of the proposed plan than by the important and valuable principle of representative institutions which it conferred.³¹

In contrast to the *Independent's* representations, the editor of the *Spectator* here suggests that they discussed the concerns and hopes highlighted by both newspapers in an environment of general apathy amongst the public. Indeed, there is little evidence of heated debate about the merits of the constitution beyond the inevitable private dinner conversations or outside the confines of newspaper editorials, and no public displays of displeasure at the loss of such legislation in Wellington.

However, the newspapers would soon become the catalyst for an extremely heated debate about the future of governance for the colony, not after the suspension, but only after Grey moved to exercise the power given to him. It sparked what on the surface appeared to be a major split in the public face of the community. It was representative of a political divide that eventually spread through much of the colony, and would define Wellington's political landscape over the next five years. From that point on, Wellington's political sphere, as reported in the two competing newspapers, was split between those who largely supported Grey's measures, and those who bitterly opposed them. However, how widespread was activism for immediate representative institutions, especially when there may have been some degree of apathy directed towards the suspended constitution?

³¹ *The New Zealand Spectator and Cooks Strait Guardian*, Wednesday, April 12, 1848, p. 2.

II

Grey's 'Procrastination Fallacy'

The Suspension and the Legislative Council of New Munster

The suspension of the 1846 constitution was brought about by a separate act of the English Parliament, after Earl Grey agreed with Governor Grey's concerns as to the likely outcome of premature responsibility being placed on the European settlers of New Zealand, especially those of New Ulster in the north. In 1847, Grey expressed his reservations to the colonial secretary in two despatches dated May 3 and 13, detailing fears that representative institutions would likely incur the opposite circumstances that the constitution act was intended for, giving "to a small fraction of her subjects of one race the power of governing the large majority of her subjects of a different race."³² Thus, Grey's principal reason for advocating the suspension of the constitution was concern for the welfare of Maori under the control of a minority European population and the subsequent concern that such an arrangement would in all likelihood spark racial tensions and further 'native disturbances'.³³ Grey's future opponents would state that this was an excuse for him to ensure his 'despotic' rule over the colony, and claimed he was merely creating a 'bugaboo fallacy'³⁴ for the benefit of the public at 'home' in England. The purpose of this chapter is to analyse the consequences that flowed from Grey's suspension of the constitution and his subsequent attempts to create a system of workable government in the colony. This includes an assessment of the representational quality of the Legislative Council of New Munster and the system of Nominees, which was a major motivating factor behind future agitation for real representative institutions.

By November 1847, Earl Grey had made provisions for the suspension, but went further than Grey had proposed by suspending the constitution for the

³² See "Extracts of a Despatch from Governor Grey to Earl Grey, May 3, 1847" *BPP*, Vol. 6, Session 1847 – 1850, pp. 42. Also found in *The New Zealand Spectator and Cooks Strait Guardian*, Saturday, March 25, 1848, p.3.

³³ An often-coined phrase.

³⁴ "Talk about the natives rebelling is a specimen of what Bentham calls the 'Bugaboo fallacy', which consists in addressing the fears of people who have no means of testing the truth of the statements made to excite them. It is an argument that is calculated to touch the English public, but will hardly pass current in New Zealand." *The Wellington Independent*, Wednesday, February 24, 1849, p. 3.

whole colony, and not just New Ulster, stating; “I have thought that upon the whole, greater inconvenience would arise from granting to one part of the colony institutions which are withheld for a season from the other, than from extending to both a delay which may be imperatively called for by the circumstances of one only.”³⁵ This however did not totally exclude the colonists of New Munster from the possibility of gaining representative institutions in the near future. While Earl Grey had overruled Governor Grey’s belief that the colonists of the southern settlements were ready for representative institutions by blanketing the suspension of the constitution across the colony, he had made room in the Suspension Act for the possibility of a form of representation to be instituted at the discretion of Governor Grey.

This was something that the two statesmen had previously discussed. Governor Grey had twice mooted the idea of a new Legislative Council with non-official members to be ‘voted by the people’. Earl Grey indicated that a provision for representatives in a new Legislative Council might be a way forward after the suspension in a despatch in November 1847, an idea he confirmed in March 1848 when an official copy of the passed Suspension Act was despatched to Governor Grey with an accompanying despatch, stating:

a Council ‘composed of official and unofficial members, the unofficial members being elected by the inhabitants of the colony,’ would, for the present, be the form of government best suited to the wants of the people, and in no respect repugnant to their feelings....But the constitution of such legislatures for the period of suspension, or of any other form of legislation which experience and local knowledge may suggest, *is left for the present to your discretion.*³⁶

This possibility, included in the Act of suspension, gave Grey a significant discretionary authority to shape the governmental machinery of the colony as he

³⁵ “Copy of a Despatch from Earl Grey to Governor Grey, November 30, 1847.” *BPP*, Vol. 6, Session 1847 – 1850, p. 47. Despite this early decision, the suspension itself was not sent out to Governor Grey until after March 18, 1848, when Earl Grey finally gave more detailed instructions on what was to be done in consequence of the suspension. See “Copy of a Despatch from Earl Grey to Governor Grey, March 18, 1848”, *BPP*, Vol. 6, Session 1847 – 1850, pp. 138 – 141.

³⁶ My emphasis. “Copy of a Despatch from Earl Grey to Governor Grey, March 18, 1848.” *BPP*, Vol. 6, Session 1847 – 1850, p. 139.

saw fit, before the suspension was to be lifted in five years time.³⁷ Earl Grey noted further in the same despatch, that he was aware that his instructions imposed upon Grey a great amount of responsibility, and that it might be necessary for Grey “to refuse to exercise...the power which you will be known to possess of extending to them the advantages of representative government.”³⁸ To his opponents, it was this very responsibility that Grey dodged by appointing nominees instead of arranging representatives for the Legislative Council of New Munster.

At first, the newspaper editors seemed relatively unconcerned with the theoretical power placed at Grey’s discretion and focussed on their belief that the suspension was likely to be a good thing for the colony. The *Independent’s* editorial did not reflect shock or horror, but rather back-tracked from an earlier earnestness for the constitution and simply observed that, “we cannot but admit that for the present, and for some time to come, there was little real benefit to be anticipated from the operation of the proposed scheme, inasmuch as the grand principle of representation was clogged in a very ingenious, but at the same time very injurious, manner.”³⁹ The *Spectator* largely concurred, stating that the constitution had been ‘waste paper’, but it seemed that, “bungling is to be mended by more complicated bungling. Lord Grey sends out a grand ‘constitution’: Captain Grey finds a flaw in it; whereupon incontinently Lord Grey tears up his constitution, and hands the decreeing pen to the Governor!”⁴⁰ Any reservations about the extent of the Governor’s ‘decreeing pen’ were,

³⁷ “Copy of a Despatch from Earl Grey to Governor Grey, March 18, 1848.” *BPP*, Vol. 6, Session 1847 – 1850, p. 139.

³⁸ Earl Grey stated that, “if there exists any strong desire on the part of the settlers for the immediate enjoyment of a completely representative government, I trust that feeling will be qualified by the reflection, that the very first principle and foundation of that order of government is, that the representatives of the people provide, by taxes imposed on their constituents, for the expense of the administration of public affairs which they control. So long, therefore, as the mother country provides a large part of the expense incurred in the government of New Zealand, the settlers have reason to be satisfied with exercising only a moderate share of direct influence over the Legislature. And when they obtain a complete system of representation, they may fairly be expected to take upon themselves the burden, together with the advantages, of representative government.” Grey often used the removal of imperial expenditure from the colony as an ineffectual threat to those who opposed him and his government. “Copy of a Despatch from Earl Grey to Governor Grey, March 18, 1848.” *BPP*, Vol. 6, Session 1847 – 1850, p. 139.

³⁹ *The Wellington Independent*, Saturday, April 15, 1848, p. 2. The *Independent* reported that the suspension had been met with much exultation by the Auckland journals. *The Wellington Independent*, Saturday, June 10, 1848, p. 2.

⁴⁰ *The New Zealand Spectator*, quoted in *The Wellington Independent*, Wednesday, May 17, 1848, p. 3.

however, seemingly subsumed by the general air of hope and confidence in Grey's ability and willingness to do right by the southern settlements. This was based on the belief, created out of Governor Grey and Earl Grey's own correspondence, that the southern settlements were ripe for representative institutions and there was in fact, no obstacle in the way of granting that great right of Englishmen, prompting the editor of the *Nelson Examiner* to write, "the Governor will have the power to do pretty much as he likes, and if he is the man we take him to be, and we should be sorry to mistrust him, he will give us Representative Government, freed from the cumbrous machinery which clothed the measures of last year."⁴¹

The newspapers were thus well founded in their belief that a partial representation would soon be instituted by Grey. However, on July 29, 1848, the *Independent* reported a rumour that the Governor would instead personally nominate non-official members to the new Legislative Council of New Munster.⁴² In one move, such an action would dash the hopes of those hoping to soon participate in a representative process, promoting instead, a belief that they would have the same kind of despotic government they had previously despised, with a leader theoretically more powerful than any who had come before.

The idea of nominees for a Legislative council for the southern settlements was a triple barrelled insult. Not only was it insulting for Wellington to submit to nominees instead of representatives who by the elective process would be responsible to the people and not to the Governor, but Grey had seemingly reversed his high opinion of the southern settlements by denying them a right they had been led to believe they were ready for. On reflection, the *Independent* stated, "the pretences which run through both these despatches of Sir George's [show an] anxiety to give at a future period the 'inestimable boon' of Representative Institutions, while he carefully provides against their introduction during his own term of office, is an admirable illustration of what Bentham calls the 'Procrastination fallacy'."⁴³ The editor believed that Bentham's idea was almost a prophetic description of Grey's behaviour, where

⁴¹ The editor continued, "Captain Grey has now a noble opportunity of turning his experience to a good account, and by giving us an enlightened form of government, confer upon this part of the colony a real blessing." *The Nelson Examiner*, quoted from, *The Wellington Independent*, Saturday, April 29, 1848, p. 3.

⁴² *The Wellington Independent*, Saturday, July 29, 1848, p. 2.

⁴³ *The Wellington Independent*, Wednesday, July 25, 1849, p. 2.

he seemed to want to cover his own shame at being opposed to something so fundamental as representation by objecting to the timing of its introduction.⁴⁴

As well as this, there was a disbelief previously expressed by the editor of the *Spectator*, that the authorities in the north, a province considered by Grey to be too politically immature for representative institutions of their own, would be the body through which a representative authority might be set up in the south, stating, “it would be so palpable an absurdity, so manifest a contradiction, that we hope it will not even be attempted”⁴⁵ and yet by September this was exactly what occurred. It was rumoured that the principal motive for the departure of Grey to Auckland after a visit to the southern settlements was to re-open the dormant Legislative Council, for the purpose of making for them a kind of constitution.⁴⁶ By November such rumours were confirmed in the *Independent*; “we perceive that Sir George Grey has at length resolved to give us a ‘Constitution’. But what a mockery – a nominee Council – nominated and removable at will and pleasure – in which the settlers cannot possess the slightest interest either direct or indirect.”⁴⁷

Thus, the *Independent* had rightly assumed that the new governmental machinery for the southern settlements was to be a nominee council. In addition to the non-official nominee’s, the Legislative Council of New Munster was to consist of Lieutenant-Governor Eyre, and an Executive Council made up of the following officials; Alfred Domett as the Colonial Secretary, Daniel Wakefield as Attorney General, Henry W. Petre as Treasurer, and Colonel McCleverty as the Senior Military Officer.⁴⁸ The editor of the *Independent* noted that the proceedings of such a body would be “kept profoundly a secret, and as we have no means of questioning measures emanating from them, they exist in private, as a ruling power, without the slightest check to their proceedings.”⁴⁹ This was one of two significant concerns with Grey’s attempt to bridge the gap between his

⁴⁴ The editor further commented, “It is in legislation the same sort of quirk which in judicial proceedings is called a plea in abatement. It has the same object, never being employed but on the side of a dishonest defendant, whose hope is to obtain ultimate impunity and triumph by overwhelming his injured adversary with despair, impoverishment, and lassitude.” *The Wellington Independent*, Wednesday, July 25, 1849, p. 2.

⁴⁵ *The New Zealand Spectator and Cooks Strait Guardian*, Wednesday, April 12, 1848, p. 2.

⁴⁶ *The Wellington Independent*, Saturday, September 23, 1848, p. 2.

⁴⁷ *The Wellington Independent*, Wednesday, November 29, 1848, p. 2.

⁴⁸ See *The Wellington Independent*, Saturday, December 23, 1848, p. 2.

⁴⁹ *The Wellington Independent*, Wednesday, August 16, 1848, p. 2.

government and the settlers of the southern settlements. The second is encompassed in the words of a correspondent to the *Independent* who wrote, “and with what assurance have the colonists that these nominees, who accept office bound hand and foot, will protect the public interests.”⁵⁰

The problem was one of perceived representation. If we follow Birch’s three-tiered definition, the nominee system fits only one tier. If the Nominees believed they would be honestly representing the interests of the people of the southern settlements, then that in one sense of the term defines them as representatives, in other words, through their behaviour. However, they were not chosen by election or any other process by the people they believed they represented, but instead by the Governor. Using Birch’s definitions, the Nominees were also then, the representatives of the Governor-in-Chief under Lieutenant Eyre at the Legislative Council of New Munster, thereby placing them under the theoretical control of the Governor, as it was he who decided on their appointment and ultimately on their possible dismissal. This was a similar kind of representation that was inherent to the office of Governor. Grey was the chosen representative of the Crown in New Zealand and he could also be considered to be the representative of the people of New Zealand to the Crown in England, despite the fact that they had not chosen him themselves. The ‘people’ had no influence on the nominees, even if they expressed no confidence in them, as many frequently did throughout the nominee’s tenure. The principal issue for the Council’s harshest critics was that, as nominees, the unofficial members of Grey’s legislative Council were not accountable to the public in any direct way. For many, the question had become a choice between endorsing either non-existent representative institutions or an irresponsible government.⁵¹

By December the names of the men who had accepted Grey’s nomination to a seat in the Legislative Council of New Munster as ‘representatives of the southern settlement of Wellington’, were available for publication. They were, Francis Dillon Bell, William Hickson, Alfred Ludlam, George Hunter, George Moore, and William Bannatyne.⁵² The names of those who were regarded as

⁵⁰ *The Wellington Independent*, Wednesday, December 13, 1848, p. 2.

⁵¹ The *Independent* often used the term ‘irresponsible’ to criticise Grey’s Government, especially in terms of expenditure and officials salaries.

⁵² *The Wellington Independent*, Saturday, December 23, 1848, p. 2. There were also three nominees from Nelson, Dr. Monro, Greenwood and Seymour.

having honourably refused were also printed in the *Independent*: William Fox, A. McDonald, E. Daniell, Kenneth Bethune, John Johnston, Isaac Earl Featherston and Frederick Weld,⁵³ most of whom became prominent members of the Settlers Constitutional Association, which set itself up as an organisation opposed to the constitution of the Council and ultimately the policies of the Governor. The *Independent*'s editor considered it a great credit to the settlement that after a full fortnight, Grey had secured the services of only six individuals. This is where the newspapers part company from their previous virtual unanimity about the place of Grey's '1846' constitution in the colony. It marks a quite dramatic polarisation of opinion on the issue of nominees versus an immediate form of representation. The *Spectator* was the nominees' only public defender, whilst the *Independent* was fiercely and harshly critical of the individual nominees as well as the system itself.

For example, the *Independent* published a scathing review of the motivation of each nominee in accepting a seat in the Council. William Hickson was reported as believing that he had merely offered himself up as a sacrifice for the public good, something that the editor sarcastically remarked should be duly appreciated and was labelled as being 'nominee fudge'.⁵⁴ George Hunter⁵⁵ was accused of accepting the office as a result of youthfully succumbing to flattery, being surprised that he had been considered at all. William Bannatyne,⁵⁶ initially refused, but was accused by the editor of being bullied by outside forces into later accepting. George Moore,⁵⁷ was believed also to have initially refused but more for personal reasons than political convictions. He accepted at the eleventh hour, and in his maiden speech compared the Legislative Council to a bone knife, used as a training implement, before a steel one, that of representative institutions, could be wielded with skill. It was a speech that was often lampooned in the *Independent*, and a sentiment that was often echoed and praised in the pages of the *Spectator*.⁵⁸ Alfred Ludlam,⁵⁹ however was

⁵³ *The Wellington Independent*, Saturday, December 23, 1848, p. 2.

⁵⁴ *The Wellington Independent*, Saturday, December 23, 1848, p. 2.

⁵⁵ This was George Hunter Junior, the son of George Hunter who had been elected Mayor in the Municipal Council elections of 1842.

⁵⁶ A Merchant.

⁵⁷ A Merchant.

⁵⁸ The editor of the *Independent* commented, "If Mr Nominee Moore, sticking to his simile urges that whereas a Nominee Council like a bone knife, is perfectly impotent and worthless, a Representative Council would act like a knife of steel, we at once acknowledge the

vociferously criticised, “no sooner had the bait thrown, than he greedily swallowed it, line, hook, and all”⁶⁰ Francis Dillon Bell⁶¹ was considered to be nearly as greedy, at first refusing, but letting it be known that he would accept on a second offering. The editor lamented, “And thus it came to pass, that each member, ‘whispering I will not consent, consented’”⁶²

The *Spectator*, however, took a profoundly different view. Derision of those who had accepted Grey’s nomination was seen by the editor to be completely unnecessary, especially considering that the immediate future of governance of the colony was inescapably going to consist of a nominee council for New Munster. He noted that:

a great and needless outcry has been raised by a certain party against this arrangement. But we must bear in mind that the present is not a question of preference, whether we are able to have a council constituted as the proposed one or a representative Council, but whether we are to have any voice in the Government or not - whether, since we cannot receive the full amount we claim from the government we should unreasonably refuse the instalment which has been offered to us.⁶³

The editor also discussed the advantages Grey’s nominees would create in Wellington in the current political climate, stating that they would strengthen Grey’s hand to promote the general interests of the colony. They would provide a useful check on any ill-considered measures, be able to apply local experience to the Council, and their work would help facilitate the gradual movement towards attaining representative institutions. However, the editor also warned that the major disadvantage to refusing Grey’s nominee Council was the

appropriateness of his comparison, and would like nothing better than to see him condemned to carve his decision with one of his bone knives, for we strongly suspect that his stomach would speedily be in such a state of rebellion at his fruitless efforts to satisfy its cravings with such a weapon, that he would soon be compelled to resort to the steel, rejecting the bone with the same disgust and indignation, with which the settlers seemed to reject the Nominee Council.” *The Wellington Independent*, Wednesday, December 27, 1848, p. 3.

⁵⁹ Unknown Occupation.

⁶⁰ *The Wellington Independent*, Wednesday, December 27, 1848, p. 3.

⁶¹ Employed by the New Zealand Company in various roles.

⁶² *The Wellington Independent*, Wednesday, December 27, 1848, p. 3. *The Nelson Examiner* was more polite in reference to these men, acknowledging their ‘private worth and integrity’, while protesting “their capacity to grapple with the many conflicting interests of the province....we look with fear and trembling to the result of their – we had almost written – deliberations, and silent votes.” *The Wellington Independent*, Wednesday, January 17, 1849, p. 3.

⁶³ *The New Zealand Spectator and Cook’s Strait Guardian*, Wednesday, December 13, 1848, p. 2.

possibility that Grey would suspend the expenditure on the roads, which was still a major issue for Wellington. The *Independent* saw this as a form of blackmail on the part of Grey, but this did not mean that the *Spectator* was beyond reproaching Grey when he was viewed by their staff as having failed. As well as criticising Grey's governmental expenditure, the editor of the *Spectator* also blamed him for ineffectual attempts to gain nominees, stating, "By his repeated and ineffectual applications to a faction opposed to his government, he has exalted them into undue importance and has deprecated the Council in the general estimation."⁶⁴

When confronted with the beginnings of invective against the nominees, the editor of the *Spectator* replied:

it is endeavoured to convert the word Nominee into a term of reproach. But we maintain that these members, when once they have taken their seats, will be as independent as any representative could be. But it is fair to suppose they will discharge their duties honestly and conscientiously, and if they should find that no good can be effected by the new form of Government they can retire and throw the whole responsibility of the failure upon the Governor. But by refusing to act, they incur the imputation of a factional opposition to the Government and retard the advancement of the colony, if, indeed, they do not inflict a permanent injury on it.⁶⁵

However, the belief that the nominees would advance the colony rather than retard it was over-shadowed.

The nine nominees from Wellington and Nelson bore a burden by accepting their positions that opened them up to severe public criticism. This was because, in the eyes of those expecting representative institutions, the nominees had put back their cause by accepting Grey's nomination. Their acceptance divorced Grey from the responsibility of granting some form of representation as his instructions from the Colonial Secretary had directed. In a long editorial on February 24, 1849, the editor of the *Independent* claimed, "we are confident that rather than have continued...[to govern alone]...he would have granted Representation in less than six months. The Nominees have saved

⁶⁴ *The New Zealand Spectator, and Cook's Strait Guardian*, Wednesday, December 13, 1848, p. 2.

⁶⁵ *The New Zealand Spectator, and Cook's Strait Guardian*, Saturday, December 16, 1848, p. 3.

him from this dilemma, and by taking the responsibility off his shoulders, released him of his difficulty.”⁶⁶

Some examples of this criticism come from Nelson colonist Edward William Stafford, a future New Zealand Premier, and fierce advocate for the immediate establishment of representative institutions. He collected several letters from friends and associates whereby they shared their mutual distrust, anger and frustration with the nominees. Isaac Earl Featherston, a principal leader of the Settlers Constitutional Association wrote to Stafford in March 1849, stating, “the Nominees are savage beyond measure, and are trying hard to get up a cry of persecution on behalf of themselves, but they find no sympathy. The officials themselves are heartily ashamed of being associated with such a scabby lot.” He continued in the same letter, “I fancy some of the Nominees would gladly resign, if they could find a decent excuse for doing so – if they will, they would find it in the strong feeling expressed against their acceptance.”⁶⁷ The name calling was most vociferous in the *Independent* during 1849, where the nominees were called variously, ‘puppets’ and ‘solons’⁶⁸, that they were each playing the role of Judas Iscariot, and were conducting some kind of ‘nominee theatre’ through their antics in the Council.⁶⁹ The *Independent* even printed a farce based on this insult over two issues in July 1849, whereby the ‘Nominee Theatre’ presented the tragedy of:

⁶⁶ *The Wellington Independent*, Saturday, February 24, 1849, p. 3. In March of the same year, the editor of the *Independent* also commented, “Though these gentlemen have, as we consider, betrayed the colony, and been the means of postponing for years those institutions under which only its prosperity can be hoped for” *The Wellington Independent*, Saturday, March 10, 1849, p. 2.

⁶⁷ Stafford, *Papers Volume 1 1846 - 1853*, Alexander Turnbull Library: MS – 2045, p. 19.

⁶⁸ ‘Solon’ means a ‘wise legislator’, after an Athenian lawmaker. H.W. Fowler and F.G. Fowler, *The Concise Oxford Dictionary of Current English*, Clarendon Press: Oxford, 1949, p. 1151.

⁶⁹ See various editions of *The Wellington Independent*, including: February 24, June 9, July 4, and July 14, 1849.

THE AMIABLE ASSASSINS
OR
THE MURDERED CONSTITUTION

By the whole company. After which a
PAS DES DEUX,

BY
HICKS AND BRICKS;

A SONG BY
CALIBAN; AND

A REEL,
BY

Three Foreign Artists!

Imported by the proprietor, at the enormous sum of
£50 Each!

From noslen. Between the acts various feats of juggling will be performed, as well as dancing on the Tight-Rope, and Tumbling, &c. The whole to conclude with the laughable Farce of

JEREMY DIDDLE,

OR
THE SETTLERS ARE DONE FOR!⁷⁰

Despite the fun with which the *Independent's* staff seemed to have with the nominees, they were of the opinion that they preferred Governor FitzRoy's Legislative Council to the New Munster one under Lieutenant-Governor Eyre, stating of the old Council, "while it ruined the colony it half killed us with laughter; whereas our provincial one, while it legislates no better kills us entirely with vacuity and dulness [sic]."⁷¹

The nominees thus found their position extremely difficult. Constantly the butt of public derision headed by the *Independent* and the *Nelson Examiner*, at least one allegedly lost their temper at being pointed out in public as a nominee. In an extract from the diary of J. Saxton, a prominent Nelson settler, an

⁷⁰ *The Wellington Independent*, Wednesday, July 4, 1849, p. 3. 'Pas Des Deux' is a Latin term describing a dance in ballet between two people, usually a man and a woman, see Cambridge Online Dictionaries at <http://dictionary.cambridge.org/define.asp?key=57828&dict=CALD>. 'Hicks and Bricks' is likely to be a reference to Nominee Hickson. 'Caliban' is the monster, or 'brutish man' from Shakespeare's play, *The Tempest*. He is the deformed half human son of a demon and a witch, and is the slave of Prospero, see Adrian Room, *Brewer's Dictionary of Phrase and Fable*, Cassell: London, 1996, p. 171. The three foreign artists are a reference to the three nominee's selected from Nelson, (noslen). Jeremy Diddler is "a character in a play by James Kenney, entitled 'Raising the Wind'. The name is applied to any needy, tricky, constant borrower, a confidence man." The Free Dictionary by Farlex at <http://www.thefreedictionary.com/Diddler>. 'Raising the Wind', was published in 1803 according to H.W. Fowler and F.G. Fowler, *The Concise Oxford Dictionary of Current English*, Clarendon Press: Oxford, 1949, p. 317.

⁷¹ *The Wellington Independent*, Saturday, May 26, 1849, p. 3. The *Independent* often refused to print long transcriptions of Legislative Council sessions, as it did not want to commit 'editorial suicide' by including such boring material. *The Wellington Independent*, Wednesday, June 6, 1849, p. 2.

incident showed how ‘thin-skinned’ Dr Greenwood, one of the Nelson nominee’s, appeared to be:

The Dr was intending to order cakes for a school tea-meeting at Motueka from Ross who had made for Campbell’s school. On his entering the shop Ross said to Dr, Greenwood ‘hear you are one of the Governors nominees’ Dr. G. turned on his heel and said, ‘I had rather be a nominee of the Governor than a nominee of the Nelson Examiner’ and walked out of the shop without giving the order.⁷²

There were even attempts to exclude the nominees from other public appointments, such as the management committee of the Savings Bank. This created a storm of controversy, prompting the editor of the *Independent* to state, “the management of the Institution, being placed in the hands of the Nominees, who are not merely wholly irresponsible to the community for their public conduct, but are also constantly subjected to that invisible, intangible, but all-powerful influence, which a despotic Government can always bring to bear upon them.”⁷³ Rutherford also noted that that the nominees were ‘frozen out’ of other committees, such as road boards and jockey clubs, as well as the Mechanics Institute.⁷⁴

The *Spectator* sheds more light on this situation in its account of the attempt by subscribers to the Burnham Water Race Course to call a re-election of the committee in order to exclude two nominees. The editor noted that if this attempt were successful, similar attempts would inevitably be made on the Savings Bank Committee, and the Horticultural Society. He commented, “to introduce the bitterness of political differences and party spirit into our social amusements naturally excited a strong feeling of disgust”⁷⁵ The attempt was defeated, showing, said the editor, that the faction did not represent the intelligent part of the community. A similar attempt on the Savings Bank Management Committee was also defeated when several members signed a

⁷² J. W. Saxton, *Diary 1849 – 51, Vol. 4*, January 15, 1849, Alexander Turnbull Library: qMS-1761, p. 17.

⁷³ *The Wellington Independent*, Wednesday, January 31, 1849, p. 2.

⁷⁴ The *Independent* was able to hint at the later construct of the Jockey Club in Wellington when a correspondent noted that it consisted of a ‘black ball majority’, *The Wellington Independent*, Wednesday, December 15 1852, p. 3.

⁷⁵ *The New Zealand Spectator and Cook’s Strait Guardian*, Wednesday, January 3, 1849, p. 3.

requisition to prevent the faction from barring nominees.⁷⁶ Thus, the rights of nominees and other government supporters to retain their other positions were protected, and the attempt by an anti-nominee party to allow politics to proliferate into other aspects of public life was halted. Therefore, the influence of anti-nominee sentiment, although prominent in Wellington, was not omnipresent. There were those who wanted politics kept away from the settlement's non-political organisations, and therefore refused to allow the anti-nominee rhetoric to influence or permeate their organisations. These examples indicate that the influence of those who were actively in opposition to the Council and its nominees was not all pervading in Wellington.

There were some local bodies that functioned well enough, which contained members who were nominees as well as some leaders of the Settlers Constitutional Association. The *Independent* indicates that Nominee George Moore was a Vice-President of the Mechanics Institute at the height of the Nominee controversy, survived an election in May 1850 to retain his prominent position. The two other vice-president roles were filled by two of the most prominent Constitutional Association members, W. Lyon and W. Fox. Several other men who had openly identified themselves as Grey supporters were elected to the committee with members of the Constitutional Association.⁷⁷ Also, in 1851, the Hon. Henry W. Petre and Alfred Ludlam, members of the Legislative Council of New Munster, co-existed as Stewards on the Aglionby Races Board with prominent Constitutional Association members such as Dr Featherston and Captain Daniell. The committee also housed Kenneth Bethune and Dr John Dorset from the Association with Government supporters William Hickson, and W. Spinks.⁷⁸ A third example of co-existence between the opposing factions is illustrated in the *Independent* by a report of the trial of a male Maori known

⁷⁶ *The New Zealand Spectator and Cook's Strait Guardian*, Saturday, January 27, 1849, p. 3. See also the *Spectator*, February 3, 1849. The names who were reported as having signed the requisition were: Chas. E. von Alzdorf, Geo. P. Wallace, W. Hickson, William Bannatyne, George Moore, Alfred Ludlam, F. D. Bell, N. Levin, J. Woodward (Secretary), George Hunter, A. Hort Snr, R. J. Duncan, James McBeth, Wm. Inglis, P. M. Hervey, H. Ross, H. St Hill, R. Stokes, R. Hart, W. Waring Taylor, Wm. F. Christian, James Blyth, James Watkin, and Samuel Ironside.

⁷⁷ *The Wellington Independent*, Saturday, April 13, 1850, p. 2, and May 11, 1850, p. 2. Two members quickly resigned their seats on an issue of confidence. However, this seems unrelated to any issue between nominees and representation supporters, being instead about whether or not the committee or the general membership would decide who was chosen as Librarian.

⁷⁸ *The New Zealand Spectator and Cook's Strait Guardian*, Saturday, February 8, 1851, p. 2.

variously as Maro, Maroro or Marore. The Grand Jury⁷⁹ consisted of all six Wellington nominees, the editor of the *Spectator*, Robert Stokes, and many prominent Constitutional Association members, including A. McDonald, John Johnston, W. B. Rhodes, John Howard Wallace, Robert Waitt, James Kelham, Kenneth Bethune and William Lyon.⁸⁰ These circumstances indicate that when an issue could be divorced from politics, members of opposing factions were at least able to serve together on the same committees. This suggests that much of the personal invective was confined to the political arena, or social networks such as Saxton's diary extract shows, and was largely reserved for the great debate on representative institutions.

The Legislative Council and the nominees were the spark that created the new factional divide in Wellington. The perceived lack of development with the old '1846' constitution and the nominee council were all motivating factors towards action being taken to ensure representational rights for Wellington, and its surrounding districts. Although anti-nominee and pro-representation sentiment was widespread, its real influence is harder to determine. Could the principal organisation formed to take action, the Settlers Constitutional Association, be termed a 'popular' organisation?

⁷⁹ The Grand Jury was appointed as a special commission, see *The New Zealand Spectator and Cook's Strait Guardian*, Saturday, April 14, 1849, p. 2.

⁸⁰ *The Wellington Independent*, Wednesday, April 18, 1849, p. 3. It seems an extraordinary feat to have gotten so many prominent men on the Grand Jury from a ballot of 810 eligible jurors.

III

'The Soi Disant versus the Solons'

The Settlers Constitutional Association and the Pro-Government Factions

The two factions were bitterly divided on the single issue of opposing forms of government. One believed that representative institutions should be established without delay, as was promised by Grey and the Colonial Secretary, to the southern settlements. In their opinion, there was no higher political objective, and it should be the duty of all settlers to agitate for it. Governor Grey was no longer seen as the great hope for the colony, but rather as a tyrant and a despot who sought to keep political power in his own hands by using flimsy procrastination arguments. To this group, those who supported the Governor and the 'irresponsible' government formed the only faction in the colony, and were often sarcastically referred to as the 'solons' of Wellington. By taking that stand they were deemed to be in opposition to their opinion, which was seen as being in keeping with, or parallel to, the majority of the population. This sentiment was embodied in the formation of the Settlers Constitutional Association.

The other group⁸¹ largely continued to place hope and faith in Grey's abilities and his knowledge of what was best for the colony. Adherents of this group also deeply valued representative institutions, but were prepared to wait the five years deemed necessary by the Suspension Act for the further development of Wellington before they were instituted. This group, although in the numerical minority, accused the other of not being the representatives of wider public opinion, as they thought themselves to be, and so constituted the only faction in Wellington, and often referred to them as 'soi disant'.⁸² This was primarily because they were considered to be the only breakaway element; they were the dissenters by virtue of opposing the ruling power of Grey and his Government, and were not as representative of wider public opinion in

⁸¹ Those who harboured faith in the government did not organise into a group until much later. At this time, there were really only a loose association of like-minded individuals. They are here referred to as a 'group' purely for ease of reference.

⁸² The term 'soi disant', meaning self-styled or pretended, was actually used in both Newspapers to describe each of the factions, but was more commonly employed by the *Spectator* in describing the Settlers Constitutional Association. See H.W. Fowler and F.G. Fowler, *The Concise Oxford Dictionary of Current English*, Clarendon Press: Oxford, 1949, p. 1148.

Wellington as they liked to think. But what was the real level, or quality of representation of the Settlers Constitutional Association? This section first analyses the initial factional break apparent in early public meetings after the suspension and the Legislative Council were announced. Secondly it analyses the purpose and people behind the Association in order to assess the level of representation it offered, and finally breaks down the actions of the Association in tandem with those who supported the Legislative Council and Grey.

Early public meetings show the emerging factional split between those who wanted immediate representative government and those who opposed them in supporting Grey and his government. The first public meeting on the issue of the future of government for the colony, after the suspension, was held on 7 September 1848, and was in response to the rumours that Grey would use nominees instead of elected representatives in any new form of government for the southern settlements. The report which appeared in the *Independent* claimed that the meeting showed a 'cordial unanimity', that a large proportion of Wellington's inhabitants were desirous of a claim being made for representative institutions. However, not all agreed with this sentiment. One attendee, Mr Roots, initially gained applause from the meeting for stating that those considering accepting the Governors nomination were men who were 'looking for little places', implying that only those who sought imagined prestige in taking political office were likely to accept. Conversely, he gained both applause and hisses from the crowd afterward, for proposing "as an amendment that Governor Grey be pleased to give us a Constitution, when he thinks proper."⁸³ Despite this discord, the meeting produced a memorial protesting against the further postponement of representative institutions by Grey, and was signed by around 150 people.

This was not the end of the matter, however, as the beginnings of the factional split can also be observed in the debacle that followed the presentation of this memorial to the Governor. The original memorial was presented by a deputation consisting of Dr John Dorset, A. McDonald, J. Smith, R. Waitt, H. Wallace, Alfred de Bathe Brandon, W. Dorset, R. Davis, J. Bligh, G. Grace, W. Vincent, A. Hornbrook, W. S. Loxley, F. Brady, T. McKenzie, T. Waters, J.

⁸³ *The Wellington Independent*, Saturday, September 9, 1848, p. 3.

Greenwood, and W. Lyon. Of these 18 men, 11 were later active members of the Settlers Constitutional Association, and two were later self-proclaimed Grey supporters.⁸⁴ Some attendees of the meeting had become unhappy with the first memorial, believing it to be unduly critical of the Governor, and arranged a second public meeting on the same day as the memorial was presented to him. It was hoped that a second memorial would be more polite and appropriate than they perceived the first one to be. It is less clear in the reports of the newspapers who was involved in this split of opinion. However, Robert Stokes, the editor of the *Spectator*, despite having endorsed the first memorial the previous week, probably arranged the second meeting. It is almost certain that William Hickson, a man who would later accept Grey's offer and become a nominee, was a ringleader in calling the meeting. He was proposed as Chairman but lost the vote to Dorset after the meeting swelled with supporters of the first memorial.⁸⁵ In this report of the second meeting in the *Independent*, two other future nominees, Bannatyne and Hunter were also clearly involved.⁸⁶

The reports of the events of the second meeting are kept clinical and indistinct in the *Spectator*. It is only through a reading of the *Independent* that a fuller account of what happened can be discerned, but it is not discussed until April 1849. In a letter to the *Independent* it was claimed that Grey actively canvassed the settlement for those he thought 'amenable to official reasoning' in order to get up a counter-deputation.⁸⁷ This would allow him to claim to Downing Street that there was dissenting opinion in Wellington in particular, and that not all settlers were desirous of immediate representative institutions. The small amount of resistance highlighted in the *Spectator* gave weight to Grey's claim. However, the *Independent* and those who wanted immediate representative institutions simply did not believe, or did not want to believe, that there was any dissenting opinion in the community and continued to proclaim

⁸⁴ See Appendix D I.

⁸⁵ A correspondent to the *Independent* called 'X' intimated this in a letter, stating, "About 'the Faction', if I mistake not, the leading man is the person whom they wanted to make Chairman." *The Wellington Independent*, Wednesday, September 20, 1848, p. 3.

⁸⁶ *The Wellington Independent*, Saturday, September 16, 1848, p. 3.

⁸⁷ Although in the report of the second meeting in the *Independent*, Fitzherbert is quoted as having accused Stokes of influencing the Governor into paying no attention to the first memorial as he was organising a second one, implying that the impetus behind the second meeting was of Stokes, rather than the Governors doing. *The Wellington Independent*, Saturday, September 16, 1848, p. 3.

vigorously that Wellington was unanimously against Grey's plans. The letter indicated that Grey was watched through telescopes from the various panoramic viewpoints on the hills of Wellington, every home he visited was noted and 'suitable conclusions drawn'. Thus when the meeting was held, "The promoters of meeting No. 1, being in the large majority, invaded the stronghold of meeting No. 2, overwhelmed them with numbers, elected their own man to the chair, *passed the milk-and-water resolution themselves*, and carried up themselves to Governor Grey."⁸⁸ The *Independent* claimed victory for the 'majority' in denying Grey his opportunity to imply a division of unanimity in the Community, the existence of which, it chose not to advertise.

There was clearly an emerging factional divide, and it was through the pages of the newspapers that the unfolding drama was played out. The *Independent* was the standard bearer of the future Settlers Constitutional Association, proclaiming the worth of all things beneficial to attaining representation in the islands of New Zealand. The *Spectator* was less obvious in advertising its bias. The editor usually supported Grey and his Government, and was always especially critical of the Association and its actions. A criticism that the editor of the *Spectator* often levelled at the Association, was that they were a self-elected group and were therefore not representatives of the people. But worse than this was that as a consequence of their own self election, the Association displayed a singular disdain of any opinion that was contrary to their own, as they believed by association, that this was opposition to the 'people's opinion'.⁸⁹ The editor of the *Spectator* allowed the paper to become a forum for the nominees to defend themselves rather than defend them himself.⁹⁰ His overall opinion, however, was that representative institutions were desirable, but that it

⁸⁸ *The Wellington Independent*, Saturday, April 21, 1849, p. 3. This was a long piece written by a former resident of the colony.

⁸⁹ For example, the editor of the *Spectator* writes in reference to Featherston and the Reform Banquet, "The political quack with his merry andrew has mounted the stage and sounded his penny trumpet in praise of his own infallible nostrums, and in condemnation of all that may happen to differ from, or be opposed to them." *The New Zealand Spectator and Cook's Strait Guardian*, Saturday, September 1, 1849, p. 2. He further comments, "in their blind rage they assail with unscrupulous and bitter invective all who differ from them and are opposed to the tyranny they desire to establish in the name of liberty." *The New Zealand Spectator and Cook's Strait Guardian*, Saturday, September 15, 1849, p. 2.

⁹⁰ In March 1849, the *Spectator* became the forum of an ongoing, letter based debate between Featherston, Hickson, Bannatyne and Hunter after Hickson challenged Featherston's vehemence against the nominees, as he believed that Featherston had in fact very nearly accepted Grey's nomination to the Legislative Council of New Munster.

should be left to Grey's good judgement as to when they would be instituted, and if Grey believed the first step towards this was to have a council of nominees then that should be embraced. The editor stated, "We have no desire to underrate the importance of representative institutions, or to wish for any unnecessary delay in their introduction; but it is well to consider whether, enjoying our present amount of liberty, it is not better to proceed cautiously, step by step, in each advance that we make, than to fail from inconsiderate haste."⁹¹ As a consequence of the deputation debacle, the newspapers had more clearly divided themselves on the issue of representation and the factional split was apparent.

The next significant public meeting took place on December 13 1848, the aim of which was to discuss a petition and a memorial to the Queen as a form of protest against Grey's nominee council. The committee formed to prepare the petition reported back in a second public meeting, "that it is expedient that an Association be formed for the purpose of obtaining free institutions...[and]...that the association be called 'The Settlers Constitutional Association.'"⁹² The *Independent* on December 23 printed the stated aim of the Association as being, "to obtain Free Institutions, and to use all Constitutional means to relieve this settlement from Sir George Grey's Nominee Council, all parties anxious to further such objects, shall, upon enrolling their names upon the books of the Association, be considered Members, and entitled to attend the Meetings of the Association."⁹³ This was the first organisation formed in order to achieve a political goal in Wellington. That goal was to obtain representative institutions and get rid of Grey's nominee council via all constitutional means. But what comprises 'constitutional means'?

The form of agitation employed by the Settlers Constitutional Association for representative institutions, in opposition to Grey's nominees, was not through unseemly public marches or demonstrations or using any other 'radical' tactic employed by the English popular reformers of 1832, but rather by using the traditional and conservative methods long employed by concerned 'Port Nickians' when they had become dissatisfied with their Governor. For example, the Association petitioned both English houses of Parliament, expressing their

⁹¹ *The New Zealand Spectator and Cook's Strait Guardian*, Saturday, September 30, 1848, p. 2.

⁹² *The Wellington Independent*, Wednesday, December 20, 1848, p. 2.

⁹³ *The Wellington Independent*, Saturday, December 23, 1848, p. 2.

dissatisfaction and through Fox, employed the support of the New Zealand Company and prominent British MP's already in favour of colonial self government. The closest the Association came to employing tactics that were either radical or unique to it and its cause was the atmosphere of public humiliation and derision in the arguments between their members and the Nominees or Grey supporters through the pages of the newspapers. In a sense, the Settlers Constitutional Association was little more than a self-elected deputation, which acted in all respects like an exclusive men's club. The very fact that it had delineated its purpose in pursuing representative institutions via 'constitutional means' limited its radius of action to conventional forms rather than an active agitation, although the issue was certainly kept alive through the continuing debate that lit up the newspapers.

Their first act as a group was to organise a petition for the public to endorse. By February 28, 1849, the petition appeared in print in the *Independent*. It outlined the grievances of those who signed it, stating that the colonists had had their 'just and reasonable expectations excited' that representation was to be introduced, but were now 'equally surprised and disappointed' that it had since been deferred. Those who signed the petition agreed that the Nominee system was repugnant to their feelings, that the nominees held no public confidence and would never have attained their high office through election, and that they doubted even an Act of Parliament or 'Grey's deliberate pledges would be security for representation to be bestowed'.⁹⁴ The petition implored the Upper and Lower Houses of the English Parliament to intervene and grant representation to the colony immediately based on these three circumstances. By this time, the *Independent* reported that 700 out of the 810 jurors of Wellington had signed this petition. The *Spectator* insisted that the Settlers Constitutional Association and the petition received only minimal support, and were therefore only a factional element of the community's overall opinion. The *Independent* countered this by stating, "a colonial society, of 4000 souls, which contain a 'faction', of above 700 male adults, and those all 'hungry place getters', is a lusus hitherto unheard of in the history of the world."⁹⁵

⁹⁴ *The Wellington Independent*, Wednesday, February 28, 1849, p. 2.

⁹⁵ *The Wellington Independent*, Wednesday, February 28, 1849, p. 2.

The return of population for the Wellington district indicates that the figure of 4000 souls is more or less correct. The town and suburbs, Karori and Karori road, Wade's Town, Hutt and 'Wainui Omate', Wairarapa and coast, Porirua and Porirua road, gives a returned population figure of 4565. Of this number, there were 1172 males of eligible Juror age and of known place of residence.⁹⁶ If the specific figure of 810 eligible jurors given by the *Independent* is a true fact, that leaves only 362 men of eligible age, who did not meet the other criteria to be considered as a juror, and hence a contributing member of society.⁹⁷ Although there is no way to know if these ineligible men supported the petition and the Association or not, the figures given by the *Independent* are important in that they were clearly proud that a majority of 'respectable' citizens supported their cause, and were certainly a powerful counter to the *Spectator's* claims that their cause was a minor one in Wellington.

Although these statistics do show a large majority of 'respectable' Wellington citizens had signed the petition, this figure does not necessarily represent the popularity of the Association. The men who signed the petition should only be considered as supporters of the petition itself, and therefore of the desire to have representative institutions legally sanctioned by the Government in England – a process likely to take several months. However much the *Independent* touted the numbers as a vindication for the existence of the Association they are not a direct indication of support for its actions, but only of ideas that it expressed and formed into a petition.

In early March, to celebrate the enthusiasm with which the petition was signed, a public demonstration in the form of a 'reform banquet' was suggested.⁹⁸ This mirrored the actions of their spiritual brothers in England, the 'Colonial Reformers' who were working for self-government for the colonies from England. The *Independent* proudly proclaimed that 200 people of every class attended. However, with the price of attendance set at a relatively expensive sum of five shillings, it seems unlikely that the poorest of Wellington's citizens

⁹⁶ Population figures for 1849 in 'Papers Relative to the Affairs of New Zealand' *BPP*, Vol. 6, Session 1847 – 1850, pp. 62 – 63.

⁹⁷ To be eligible to be a Juror, a colonist had to be between the ages of 21 years and 60 years, have freehold estate in lands and tenements within the colony and be resident in that area. See 'An Ordinance to Regulate the Construct of Juries' *BPP*, Vol. 4 Session 1843 – 1845, p. 86 [8].

⁹⁸ See between pp. 304 – 305 of McLintock, *Crown Colony Government*, for a reproduction of a broadsheet advertising the Grand Reform Banquet to be held at the Britannia Saloon.

would have had any representation amongst the guests, meaning that this would have been only a very limited ‘public’ demonstration. It became the spark for a heavy debate between the nominees and Featherston, who lambasted the nominees in a speech at the banquet for accepting their new positions. He commented, in the *Independent’s* reconstruction of the speech, “in consenting to act as a screen to the nakedness of the present despotism, they had been guilty of conduct far more unjustifiable than if they had boldly proclaimed themselves enemies to Free Institutions...they would, however, yet be made to feel, that no community could be sold and betrayed by any six men with impunity. (cheers.)”⁹⁹ Nominees Hickson, Hunter and Bannatyne testified in a series of letters to the *Spectator* that Featherston had in fact very nearly accepted Grey’s nomination to the Council and was only dissuaded by McDonald’s interference, contradicting Featherston’s subsequent vehemence against the nominees.¹⁰⁰

There was little activity following this celebration until August 1849, when a series of thirteen resolutions were prepared and discussed at the Association’s meetings. Their purpose was to highlight grievances of the community to those concerned in England.¹⁰¹ The purpose of these resolutions was to shore up the petition, to show England that they were not lying idle whilst they waited for their reply. A further consideration to make with regard to these resolutions is that they carried some heavy accusations as to Grey’s conduct as Governor. These were not included in the petition signed by the public; the resolutions were solely those of the Association. The *Spectator* denounced the resolutions as gross fallacies, misrepresentations and laboured perversions whereby the Association had shown how its “personal malignancy towards Grey animates a hatred that is characteristic of the resolution’s author.”¹⁰²

⁹⁹ *The Wellington Independent*, Saturday, March 3, 1849, p. 2.

¹⁰⁰ *The New Zealand Spectator and Cook’s Strait Guardian*, Wednesday, March 7, 1849, p. 2.

¹⁰¹ These included, among other things, that they believed Grey’s despatches home to England were untrustworthy, that Grey ‘manoeuvred’ to get sanction for the nominees at home, and that Grey had suppressed difficulties in the colony. It also asserted the colonist’s detestation of the nominees, refuted Grey’s claims that there was no other option for the government of the colony other than a nominee council, stated that the ‘natives’ were no excuse for the delay in gaining representative government, and detailed their belief that training for representative government through the nominee council was absurd. *The Wellington Independent*, Wednesday, August 29, 1849, p. 2.

¹⁰² *The New Zealand Spectator and Cook’s Strait Guardian*, Wednesday, September 1, 1849, p. 2. The editor further commented that, “in a former notice of the Report and Resolutions of the *soi disant* Settlers Constitutional Association we charitably inferred that the framer of them must have been labouring under some kind of intoxication, since we were persuaded that, however

In November, the *Independent* reported the favourable reception of the petition in England. It was heralded as a great victory for the Settlers Constitutional Association and for the people of Wellington, as well as for the whole colony. The *Independent* commented on the *Spectator*'s attitude towards the Association and its success:

“The *Spectator*, like that stupid bird which thinks to escape the hunter by not seeing him, has all along made a pretence of believing that the number of the friends of self-government was exceedingly limited – that their voice would never be heard beyond their own narrow sphere of agitation in Wellington – that the Petition would be presented and that would be the end of it. ‘The uproar in this colony’ as Mr. Wakefield calls it, ‘is beginning’, he says, ‘to affect Sir George Grey’s reputation’. Now what is this uproar? Why the very petition – the very banquet, meetings and articles, which our purblind contemporary cannot discover under his nose.”¹⁰³

The editorial further stated that the *Spectator*'s editor, “and his party – the small government faction, know full well that they are beaten – that the day is at hand when they will no longer be able to pretend they do not feel it.”¹⁰⁴

The *Spectator* however, had taken a very different view of the petition's reception in England, stating that the petition had made much the same impact as so many other such documents had: it was received at the House of Commons, and that was the end of the matter. The editor continued, the “bubble has burst”, and the Faction, “are extremely mortified and quite chop fallen to find that the piece of quackery which they tried hard to induce the credulous to believe would prove a wonder working panacea, has turned out to be an abortion, that the mountain has produced a mouse, and that all their ‘colonial manoeuvres’ have only ended in defeat and disappointment.”¹⁰⁵

Despite the editor of the *Spectator*'s conviction that the Association had been defeated and disappointed, he was well aware of why the Association had been so dominant during most public meetings and why they appeared to have so much support. He commented on this in August 1850, stating:

weak his intellect or inordinate his self-conceit, however great his confidence in the credulity of his adherents, no one in his sober senses could reasonably hope that such a farrago of misrepresentations absurdities and contradictions would pass current with any intelligent person.”
The New Zealand Spectator and Cook's Strait Guardian, Wednesday, September 8, 1849, p. 2.

¹⁰³ *The Wellington Independent*, Wednesday, November 14, 1849, p. 2.

¹⁰⁴ *The Wellington Independent*, Wednesday, November 14, 1849, p. 2.

¹⁰⁵ *The New Zealand Spectator and Cook's Strait Guardian*, Wednesday, November, 1849, p. 2.

The Faction have been strong – not in numbers or from possessing individual talent in their members, - not from any learning or ability in their leaders, - not from acting in the cause of liberty or justice:- No! no! Our apathy, neglect, political indolence, and indifference, have been their tower of strength. Let us no longer permit a set of factious place hunters to term themselves the people of Wellington.¹⁰⁶

Throughout all of this opposition ran this ever-present theme, that of *apathy* amongst the general population of Wellington hitherto un-pledged to either factional divide. Even a correspondent to the *Spectator* commented on this, stating, “Before it is too late let the men of Wellington shake off their dangerous apathy...”¹⁰⁷ The rise of an organised version of the ‘Government party’, or the ‘pro-Grey’ faction, came about as a consequence of the Settler’s Constitutional Association’s attempt to form their own version of a constitution suitable for the colony, and this perceived apathy amongst the residents of Wellington. Some kind of resistance was seen to be necessary by opponents of the Association, and the public meeting organised to present the Association’s constitution was chosen as the ideal venue to vent their disagreement.

The first meeting for this purpose was delayed several times, but was finally held on 29 January 1851. This meeting, of more than two hundred Port Nickians according to the *Spectator*, descended into chaos and had to be postponed till 3 February as the two factions squared off. The two Wellington newspapers clearly show in their reporting of the meeting their factional proclivities, the *Independent* blaming the government ‘party’ for forcing the postponement, and the *Spectator* claiming a great victory for ‘public opinion’ in the opposition showed to the ‘soi disant’ Association. The *Independent* constructed its report of the meeting carefully, referring to members of the Government party as if they were unknowns in the community with no public standing, and hence no authority,¹⁰⁸ whilst members of the Association were prominently displayed with full titles, such as ‘Doctor’, ‘Captain’ and ‘Justice of the Peace’. According to the editor of the *Independent*, “every attempt of the

¹⁰⁶ *The New Zealand Spectator and Cook’s Strait Guardian*, Saturday, August 10, 1850, p. 2.

¹⁰⁷ *The New Zealand Spectator and Cook’s Strait Guardian*, Wednesday, January 22, 1851, p. 2.

¹⁰⁸ These men were identified as ‘a Mr Wakelyn’, Carpenter, Hart, Taylor, Roberts, and the Colonial Surgeon Dr Fitzgerald. Wakelyn was accused of pandering to Grey in order to get the government contract to build a hospital. *The Wellington Independent*, Saturday, February 1, 1851, p. 2 – 3.

speakers on the popular side to obtain a hearing...[were]...met by howls, yells, cock-crowing, catcalls, and the usual approved machinery of noisy minorities...”¹⁰⁹ This shouting, whereby Government supporter Dr. Fitzgerald lost his temper and was ‘a man in a frenzy’, as well as the repeated calls for the meeting to acknowledge Grey’s Provincial Council Bill instead, and the desire for the report of the committee to be printed and generally distributed before the public commented on it, eventually created a situation whereby it ‘became impossible to proceed with the business of the evening’.¹¹⁰

The *Spectator* recorded the same events, but with a different perspective. The editorial after the meeting led with the line, “the spontaneous expression of public opinion, elicited by the proceedings at last Wednesday’s meeting has inflicted a heavy blow and great discouragement to the faction.”¹¹¹ To the *Spectator*, the meeting had shown the Association that the public was not happy with their assumption of representation.¹¹² The Association was interpreted as having shown its discomfort when faced with this reality when the chair refused to put a resolution proposed by Carpenter to the meeting stating, “this meeting denies the gentlemen terming themselves the Settler’s Constitutional Association represent any portion of the settlers except themselves”¹¹³ The editor of the *Spectator* declared that the constitutional ‘Faction’ were thus found out – they were the champions of freedom and proponents of the institutions of the fatherland only when doing so suited the furthering of their own interests.¹¹⁴ The

¹⁰⁹ *The Wellington Independent*, Saturday, February 1, 1851, p. 2. Other accusations were laid and repeated via the original correspondence of ‘John Freeborn’, who stated that the opposition to the Association at the meeting largely consisted of plain-clothes policemen, 20 – 30 ‘natives’ including the ‘native boat crew’, Customs Officials, ‘native commissioners’ and government builders and engineers. *The Wellington Independent*, Saturday, February 1, 1851, p. 2 – 3. ‘John Freeborn’ identifies Mr Roberts as a government Engineer, and Messrs. Pickering and Eade as Customs officials.

¹¹⁰ *The Wellington Independent*, Saturday, February 1, 1851, p. 2.

¹¹¹ *The New Zealand Spectator and Cook’s Strait Guardian*, Saturday, February 1, 1851, p. 2.

¹¹² The editor wrote, “The good sense and intelligence of the people of Wellington has unequivocally demonstrated how false, how unfounded is the assumption of these persons that they are the recognized exponents of public opinion, that they have any real weight in the settlement.” *The New Zealand Spectator and Cook’s Strait Guardian*, Saturday, February 1, 1851, p. 2.

¹¹³ *The New Zealand Spectator and Cook’s Strait Guardian*, Saturday, February 1, 1851, p. 3.

¹¹⁴ *The New Zealand Spectator and Cook’s Strait Guardian*, Saturday, February 1, 1851, p. 2. The ‘Faction’ had to ‘invent’ stories to cover their humiliating defeat, and according to the editor, there could not have been more than 6 – 8 Maori, the Customs boat crew only amounted to 5 persons, and even if the entire police force were present, this could only account for 19 men. To the editor, this was surely only a small number to have so heavily swayed a meeting from public opinion, and hence, the *Independent* was clutching at straws.

Spectator perceived its own reality of the meeting, stating, “The fact is,- and they know it,- they have been defeated by an honest, open, independent expression of public opinion, hence their bitter disappointment, hence their utter recklessness of assertion.”¹¹⁵ The question remains, which newspaper provided the most realistic picture of the social make-up of the meeting?

The newspapers provide two options; either the meeting was flooded with Government Officials who were able to drown out the wider public and other Association members, or the Official contingent at the meeting was relatively small and the sheer weight of public opposition to the concept of the report made by the Association’s committee won the day. A third option is also possible, that out of the two hundred odd persons present, there were a large majority of people already pledged to one faction or the other, and only a very small minority of nameless, un-pledged members of the public. Public meetings in Wellington had become so convoluted by the factions that the public voice was being lost. It was no longer clear when a resolution was passed, whether unanimously or not, if it was by the consent of the public concerned enough to show up at the meeting. This meeting and its follow-up, show this confusion.

The meeting on 3 February shows a complete reversal of fortune for the ‘Government party’. The report of the Association’s committee had been printed on the Saturday before and so the ‘public’ was now suitably empowered to make submissions and comments upon it. The editor of the *Independent* declared, “The colonists have again achieved a most complete and triumphant victory over the advocates of despotism.”¹¹⁶ His enthusiasm stems from the fact that the Report of the committee was assented to by a large majority of the attendees, including Government Officials, numbering some 500 – 600 persons. The Government ‘party’ were given nearly two uninterrupted hours to state their case against the resolutions, and when Carpenter’s amendment that the Report be rejected was put to the Chair, it lost by a majority of at least 8 to 2.¹¹⁷ The *Spectator* conversely stated in its report on the meeting, that although Carpenter’s amendment lost, there were still ‘a number of persons’ opposed to the Report.¹¹⁸ The *Spectator*’s official position was that, “The result of Monday’s meeting may

¹¹⁵ *The New Zealand Spectator and Cook’s Strait Guardian*, Saturday, February 1, 1851, p. 2.

¹¹⁶ *The Wellington Independent*, Wednesday, February 5, 1851, p. 2.

¹¹⁷ *The Wellington Independent*, Wednesday, February 5, 1851, p. 3.

¹¹⁸ *The New Zealand Spectator and Cook’s Strait Guardian*, Wednesday, February 5, 1851, p. 3.

be regarded a ‘mere sounded fury signifying nothing’, and the Report of the ‘persons styling themselves a Constitutional Association’, will probably meet from Lord Grey with a similar reception to that experienced by the resolutions forwarded by them on a former occasion.”¹¹⁹ The editor here had hit on what was probably the principal reason why the Government ‘party’ had lost in its bid to have the committee’s Report thrown out.

It would have been relatively harmless to endorse the Association’s ideas on a possible constitution for the colony, despite the flaws the *Spectator* had identified in its individual terms. The Association had no power to implement it – they were in essence a protest organisation, and as the *Spectator* identified, the best they could hope for was its serious consideration by the Colonial Secretary. However, any endorsement of Grey’s Provincial Council Bill or of Grey’s competence carried with it a certain degree of finality, as Grey did have the power to immediately implement his ideas on governance. There was a very real concern that if anything less than the best was accepted, then the colony would be stuck with that form of government. In a letter to Stafford, William Fox wrote on Grey’s Provincial Council Bill:

At first glance we were inclined to hail it with satisfaction....Had the measure been merely temporary, to last only till the Home Government should introduce a better next session, I should have said ‘take it by all means’, but when we learned that G. G. expected the Home Government to adopt it as a permanent form of Provincial Government only looking for the addition of the machinery of general government, it decided us at once.¹²⁰

This was a dangerous possibility when the government was considered by Association sympathisers as being utterly irresponsible. Ultimately it was the accountability/responsibility issue that was again in the forefront of the Association’s criticisms of the Government ‘party’.

Factional squabbles continued after the Association’s constitution was accepted at the ‘public’ meeting, including the sending of a ‘Government party’ Deputation to the Governor consisting of prominent Government supporters, R. Hart, W. Couper, R. J. Duncan, James McBeth, W. Spinks and J. M. Taylor. Its

¹¹⁹ *The New Zealand Spectator and Cook’s Strait Guardian*, Wednesday, February 5, 1851, p. 3.

¹²⁰ Stafford, *Papers*, pp 65 – 67.

purpose was to present a petition signed by 230 persons,¹²¹ that objected to the Association's constitution on nine separate points.¹²² The *Independent* responded by accusing the Government 'party' of obtaining the signatures via fraudulent means. However, it was the arrival of information on the new bill for New Zealand's future government as it passed through the English parliament that captured the imagination of both newspaper editors' from August 1852. The various factions took on new forms after the disbandment of the Constitutional Association after the 1852 Constitution was announced. This marked the beginning of earnest electioneering for places in the colony's first officially sanctioned representative form of government provided by the 1852 constitution. The actions of neither faction, therefore contributed to the change in government secured by the 1852 constitution, but they certainly influenced the political atmosphere in Wellington. However, the question remains, what was the real level, or quality of representation of the Settlers Constitutional Association and the 'pro-Grey' faction?

An assessment of newspaper reports of Association meetings reveals 61 names of people who attended their meetings at various times.¹²³ From this list it can be deduced that at least 29 of them were fully-fledged members who attended regularly and took an active and prominent role in preparing documents and running the meetings. Of this 29, at least 14 had not been previously involved in other factional divisions, discussed primarily in chapter two of this thesis, although this did not mean they had no experience in the public forum. A

¹²¹ The *Spectator* reported, "Though at first intended merely to embody the sentiments of those at the meeting who formed the minority, it has met with such general acceptance that in less than forty-eight hours it has received the signatures of upwards of 230 persons, and if time had permitted would, we believe, have been the most numerous and respectably signed public document which has ever been put forth as expressing the opinions and wishes of the settlers" *The New Zealand Spectator and Cook's Strait Guardian*, Wednesday, February 8, 1851, p. 2.

¹²² Including, New Zealand being unequal in population, but equal in landmass to Britain, and therefore it would be unwise to grant the people full control. It was unjust to submit 70,000 Maori to 20,000 Europeans. Maori should be fairly represented as they are far more civilised than the Australian native, and that correct information about the state of Maori should be attained. As Britain pays for New Zealand's protection, it should control the colonies wastelands. Two years should be sufficient length for each chamber, as any more time would give them too much power. There was no previous experience to inform them of what would happen if wastelands were entrusted into the hands of a single class, and finally, the burden on the colony in consequence of the dissolution of the New Zealand Company, had not been discussed, and as such Fox was not the best man to advocate the interests of the settlers as he had previously been the Principal Agent of the Company. *The New Zealand Spectator and Cook's Strait Guardian*, Wednesday, February 8, 1851, p. 2.

¹²³ See Appendix D I.

great many of these prominent members seemed almost to be politicians-in-waiting, as they went on to higher offices after 1852.¹²⁴

Of those with previous experience in factional divisions in Wellington, most had been part of a working-class faction, or had fairly evenly balanced their attention between an elite and a working-class division. Only two had served solely on elite committees before. This is a fairly unsurprising composition of men to be involved with such a group as the Constitutional Association. A desire for free representative governmental institutions had long been associated with the 'masses' or with the 'working-classes' of the world who wanted a say in how their country was governed in a developing industrial world, for example, the 1848 revolutions that swept across Europe. This itself may suggest that as Association members had previously supported groups which carried the persona of being working-class based, or being representations of the 'masses', that the Association might also be considered a 'popular' movement. However, as chapter two has shown, although working-class factional groups in Wellington could be given the *label* of 'popular', they did not actually represent the whole of the people. Many individuals used the rhetoric of 'working-class' and claimed to be their representative by being 'like' them, as Birch's third definition described, but were really of a different socio-economic class, who merely sympathised with those in a lower grouping. Therefore, when the composition of these groups is analysed, they had a poor level of representative quality. Just as the working-class factional groups were almost solely made up of one non-representational group, the Constitutional Association was dominated by a rising, powerful Merchant 'class'.

Of the 29 prominent Association members, 15 were Merchants or were in trades that relied heavily on Merchant success, such as Innkeepers and Auctioneers. Eleven held miscellaneous professions, but all were highly skilled, including Solicitors, Bankers and Doctors. There is no evidence of any 'working-class' representation in the Association. Just as factional politics based on class had dimmed during this period of constitutional concern, the issues pertaining to the working classes of Wellington, as well as the working-class itself have seemingly faded from the historical record. In the place of class based

¹²⁴ See Appendix D I.

faction was an Association claiming to represent the opinions of the whole population of Wellington in pushing for immediate representation. However, it was dominated in structure and organisation by an almost exclusive class of individuals, who seemed to be solely concerned with representing the interests of their 'like', as in Birch's third representational definition, which they saw as coinciding with the welfare of the colony as a whole. An example of the very specific bent of the Association towards benefiting its Merchant elite can be seen in examples of meetings that took place whereby other subjects were tabled after constitutional matters had been discussed. In August 1849, at least two meetings were conducted whereby the *Independent* reported a detailed discussion on experiments on the commercial viability of both Flax and Ironsand.¹²⁵

Constitutional reform in England was brought about through a public agitation and a popular will because of widespread and swelling concerns about political corruption in the electoral system. New Zealand was, of course, in a completely different situation from this. In New Zealand the Merchants would benefit the most from having a free and representative government so they could regulate customs and import duties and their like. There was less need for the 'people' of New Zealand to rise up for representative institutions as their position was no longer comparable to counterparts in England either pre or post 1832. Most were more concerned with 'getting on'¹²⁶ in a brand new country unfettered by hundreds of years of history and development, which would be helped more immediately by a buoyant economy, rather than by a universal suffrage. In this sense perhaps, the Settlers Constitutional Association embodied a relatively high quality of representation for the people of Wellington, via completely indirect means. As by representing the interests of a single class, they indirectly represented the best interests of the majority of new settlers, just as they believed they were doing.

Birch's first definition of representation is based on the mode of the representatives' behaviour. If a person or group functions to protect or advance the interests of others, then they can be considered to be the representatives of those others, just as the Association believed themselves to be. Conversely, by this definition, the supporters of Grey and his nominee council would also be

¹²⁵ *The Wellington Independent*, Saturday August 11 and Saturday, August 25, 1849.

¹²⁶ This term has been popularised by Belich in *Making Peoples*, pp. 376 – 411.

representatives of Wellington's citizens, as they believed Grey only had the interests of all the people of Wellington at heart in creating the Council. Is it incongruous to have two totally opposed groups as representatives of the same people? In this case the answer is no, as both factions represented Wellington in name or rhetoric only, in the face of apathy including a total lack of demonstration from a united 'people' as to what would really have been representative of their opinion.

The actions of the Association illustrate their limited scope of action and the lack of a 'popular' will in Wellington during this period. By this it is meant that, had the desire for representative institutions been based on a popular need for constitutional reform, not only would the Association have been constituted of a wider socio-economic cross section of the community, but there would have been more obvious public displays of dissatisfaction. The editor of the *Spectator* noted of the *Independent*:

"When our contemporary talks so much of 'the people', as if those who agreed with him were the only true exponents of the sentiments of the community, we must take the liberty of reminding him that this is the favourite cant of mob orators. Ledru Rollin, Louis Blane, every leader of faction, in short, arrogates to himself this title, and yet recent experience shows how far such persons are from really expressing the popular sentiment."¹²⁷

Instead, the Association could only manage to express their dissent from Grey in the same manner that individuals had previously done by forming publicly endorsed deputations, petitions or memorials.

On the other hand, the 'pro-Grey' faction was really only representative insofar as Grey was the nominated authority of the Crown, yet his authority was generally felt to be irresponsible because the Crown Colony Government was not an elected body, hence its officers acted 'irresponsibly'. Grey was not the elected representative of the colony. The Association was perhaps more representative of the public opinion of Wellington, but only because opposition to their claims was limited to the numerically inferior 'pro-Grey' faction. By Birch's third definition of representation, that a person or group can be a representative if they are typical of a class, the Association can only claim to be

¹²⁷ *The New Zealand Spectator and Cook's Strait Guardian*, Wednesday, February 14, 1849, p. 2.

the representatives of an elite, highly skilled and propertied class of prominent Wellington citizens. The editor of the *Spectator* commented:

Who appointed the pets of the Faction to be popular leaders? Who authorised *them* to state they represent the people of Wellington! Every working man of whom I have asked these questions, scornfully rejects their leadership; I therefore conclude that their self-conceit alone has elected them to the imaginary leadership of a body of constituents who no more exists than the philosophers stone.¹²⁸

Therefore, the question of representation is firmly attached to the concept of apathy being endemic to the participation of the wider population of Wellington in political affairs that affected the colony.

Throughout the late 1840s, these two factions used the newspapers to advertise their opinions and the success and support they enjoyed, each seemingly ignoring evidence to the contrary. The ‘pro-government’ faction supported by the *Spectator* was a minority opinion. Not many individuals actively supported it. The pro-representation Settlers Constitutional Association was the dominant political force in Wellington, and was certainly not as weak or unsupported as the *Spectator* wished to believe. However, they were right in labelling the Association a faction. They did have a relatively large following, had frequent meetings and had a large proportion of unofficially franchised men sign a petition against Grey and his nominees, but they were not representative of the opinions of the wider Wellington community as a whole. Instead, most ‘public’ meetings had become forums for individuals subscribing to the two factions to ‘do battle’, so to speak. Despite both factions actively believing they represented the opinions of the wider public, neither did so in any practical manner. Because the highly elitist Settlers Constitutional Association was the only group in Wellington concerned with gaining representation in the colony, it can be concluded that there was no real popular agitation for representative institutions in Wellington prior to the 1852 Constitution’s announcement. There may have been a public desire to have them, exposed in the large number of signatures attached to the Association’s petition, but this was not overtly

¹²⁸ The editor continued, “the origin of the factious agitation was Governor Grey’s declining to be either advised or directed as to his official duties by a few self-elected irresponsible puppies”, *The New Zealand Spectator and Cook’s Strait Guardian*, Saturday, August 10, 1850, p. 2.

expressed except through the actions of one class in the community who acted like, but were not strongly representative of the people of Wellington.

This was all in response to, and a development from, the perceived lack of responsibility in those who were in control of the colony. Grey, who was once considered to be the great hope of the colony after the perceived disasters of the governorships of Hobson and Fitzroy, had instead become synonymous with despotism and irresponsibility. He had provided the greatest hope to those who looked forward to controlling their own affairs, only to snatch it away again, which to them had occurred for no apparent reason. Grey's next act, in creating the nominee council, aroused in some an outrage based on memories of past struggles and the new belief in an Englishman's right to fair and equal representation. Others however, agreed with the delay and the division between those two opinions formed the basis of political feeling in Wellington in the late 1840s. In the early 1850s, new rumours began to circulate about a possible new constitution for the colony. Many ideas were discussed in the settlements, especially in the newspapers, and the various Constitutional Association's around the colony became involved in drafting its own plan for the future government of the colony.

FOUR

A Question of Politics

1850 - 1853

Chapter three made an evaluation of Wellington's situation during the early years of Sir George Grey's governorship of New Zealand, where many colonists were looking for a way forward from an inadequate past created by the Governors of the Crown Colony system. The 'honeymoon' period of Grey's governorship was over when, after the suspension of the constitution act of 1846, Grey set up a nominee council and seemingly overturned his opinion that Wellington was ready for representation. Neither the constitution, nor Grey's Legislative Council of New Munster was of a particularly broad representative quality, which enabled the feeling that irresponsibility was inherent to the Crown Colony System of government to fester amongst many Port Nickians. The nominee council was the principal accelerant that gave rise to an intense political division in Wellington. While one 'faction', as yet not organisationally formed, supported Grey's actions in the belief that they were ultimately beneficial to the colony; the other disparaged him and his actions, equally believing them to be detrimental to the colony. The subsequently founded Settlers Constitutional Association could be described as being representative of Wellington's European citizens by their behaviour, but they were not representative through Birch's other definitions. They were therefore of a relatively poor representative quality, and not a 'popular' representative body. The 'people' are largely absent in the historical record until analysis of events of public involvement, such as elections, can be done.

This chapter encompasses the last years of Grey's first governorship of New Zealand, where the theme of governmental irresponsibility becomes a principal issue of discussion in the newspapers, and between the opposing factions in Wellington. The chapter's purpose is to analyse discussion of this issue through the period of anticipation for, and then the inauguration of, the new 1852 Constitution for the colony. It gauges the quality of responsibility inherent in the new Constitution and the governmental machinery it created, assessing the path and methods employed by both factions during this period, and determining

whether or not there was any subsequent form of popular agitation for political change. This is done firstly by exploring the dual understandings of responsibility expressed in Wellington during Grey's governorship of perceived irresponsibility, coupled with possible solutions to the constitutional question discussed in the two rival newspapers. This includes their general musings on constitutional ideas through to Grey's Provincial Councils Bill, the Settlers Constitutional Association's ideas for a new constitution and the re-formation of the General Legislative Council. Secondly, this chapter further analyses dual understandings of responsibility inherent to the Constitution itself, and examines the Wellington Provincial Council and General Assembly elections. Canvassing for these elections centred on the issue of the responsibility of the new representatives and the issue of pledging the candidates to resign their seats if certain policies were not followed. Thirdly, this chapter makes a statistical assessment of the results in the Wellington elections to assess the level of popular involvement in the selection of the Provinces first officially sanctioned representatives. Both of these newly constituted representative bodies found their early sessions hamstrung by continuing issues of confusion surrounding the role of an executive power and the subsequent issues surrounding those bodies responsibility within themselves and to their constituents. Once again, there are three focussing questions. What understandings of responsibility were expressed in the colony, and what were the possible solutions explored in this period to the responsibility issue? To what extent did new ideas expressed on the future constitution of the colony provide any significant advancement in the responsibility of the colony's authority figures? And finally, to what extent did the issue of responsibility invite any popular agitation for new governmental machinery, or protest against the new Constitution?

I

'Sisyphus versus the Evil Genius'

Dual Understandings of Governmental Responsibility Under Governor Grey

By 1850, Governor Grey's 'honeymoon' period appeared well and truly over. He had, like his two predecessors, become a hated figure in the colony. The *Independent* labelled him a tyrant and a despot who was desperate to maintain his grip on the reins of governance in the colony rather than pass the torch on to the people by granting representation. This paper purveyed a general perception of criticism of Grey during this period that he acted in an entirely irresponsible manner, which was an opinion that the newspaper often repeated. For example, he was accused of unwisely spending the colonies revenue on an excessive of untalented officials instead of local infrastructure such as the Wellington gaol,¹ and was repeatedly lambasted for his continuing procrastination towards representative institutions. The *Independent* wrote:

An Evil Genius seems to haunt this colony, ready to seize every opportunity of blighting its prospects and marring its destinies. No sooner is one obstacle to our progress removed than another starts up. Scarcely has a gleam of sunshine gladdened our hearts and cheered us in our onward path before we perceive a storm brewing in the distant horizon. We have scarcely achieved a victory, before we are called upon to renew the contest, and generally at the very moment when we are most lulled into a state of security. Our hopes and expectations are barely raised before our Evil Genius steps forward and dashes them to the ground. We appear like Sisyphus condemned to roll the great stone to the top of the mountain, only to have it return upon us with increased violence and rapidity. There is no repose.²

As the 'Evil Genius', Grey was perceived to have stalled the development, not only of Wellington, but also of the whole colony, which the *Independent* saw as being comparable to the "standstill state of...Tory-ridden Canada."³ This section looks at the different ideas of self-government and governmental responsibility

¹ An example of this is illustrated in the *Independent* in September 1850, whereby the editor called attention to "the unnecessary number of official Jacks who are kept to help official Toms to do official nothings", *The Wellington Independent*, Wednesday, September 18, 1850, p. 2.

² *The Wellington Independent*, Wednesday, February 27, 1850, p. 2.

³ *The Wellington Independent*, Saturday, January 12, 1850, p. 2.

that were discussed prior to the inauguration of the 1852 Constitution, as solutions to this perceived irresponsibility displayed by the Governor. Ultimately, there were two opposing versions of what kind of governmental machinery would ensure authoritative responsibility.

The *Independent* was prompted to a renewal of discussion on constitutional ideas by the widespread dissemination of an open letter by future Canterbury settler and Canterbury Association Director John Robert Godley to W. E. Gladstone on the constitutional issues facing the colonies.⁴ The letter's principal theme was that the colonies were entitled to a complete independence from the home government on matters of a purely local interest, even to the extent of abolishing the Governor's power of veto over such matters.⁵ Godley defined 'self-governance' for the colonies as, "the right and power to do, within the limits of each colony respectively, without check, control, or intervention of any kind, everything that the supreme Government of this country can do within the limits of the British Islands."⁶ Godley alleged that the Colonial Office had failed to provide self-government, except through gradual instalments, and that this would eventually compel each colony into rebellion, and force the break up of the Empire. Although separation from the colonies was a growing desire amongst some English politicians, Godley believed that keeping them was essential to the 'honour and supremacy' of the British Empire. It was his belief that self-government to the extent he quoted was the only answer in order to ensure the on-going loyalty of Englishmen in the colonies to their mother

⁴ Godley was a well-educated man of Irish decent, and together with E. G. Wakefield, co-founded the Canterbury Association, and hence the Canterbury settlement itself. He was extremely well versed in the troubles of English colonies and the desires for their own self-government, having travelled to both the United States and Canada in 1842. Gerald Hensley, 'Godley, John Robert, 1814 – 1861', *Dictionary of New Zealand Biography*, updated 31 July 2003, <http://www.dnzb.govt.nz/>

⁵ *The Wellington Independent*, Saturday, June 29, 1850, p. 2.

⁶ Godley began firstly by categorically stating what it was not. He wrote, "I do *not* mean, then, mere powers of paving and lighting and road-making; nor the privilege of initiatory legislation; nor the liberty of making subordinate official appointments; I do not mean a regimen involving the reservation of civil lists, or the interposition of vetoes, or any other of those provisions in virtue of which Ministers in Downing Street are in the habit of interfering with the internal concerns of colonies. I mean by local self-government, the right and power to do, within the limits of each colony respectively, without check, control, or intervention of any kind, everything that the supreme Government of this country can do within the limits of the British Islands." C.E. Carrington, *John Robert Godley of Canterbury*, Whitcombe and Tombs: Christchurch, 1950, pp. 221 – 222. Letter also printed in the Auckland newspaper, *The New Zealander*, Supplement, Tuesday, May 22, 1850, pp. 1 – 2.

country.⁷ Denying them self-government was tantamount to denying them their rights and privileges as Englishmen, and destroying the strong feelings of loyalty and allegiance they enjoyed under a shared citizenship.⁸ For many colonists, his succinct summation of ideas circulating amongst such people as the Colonial Reformers in England, gave them hope that self-government would be the panacea for all of the ills in the colony.

The *Spectator*'s editor took a very different view of Godley's ideas. In his opinion, Godley had nothing but vague understandings of the principle of self-government to offer the colony. He wrote that Godley was, in effect, attempting to persuade the people that "the one great thing requisite to ensure to themselves speedy and lasting prosperity is self-government on the very broadest basis, so broad indeed as to amount virtually to a complete separation from the mother country."⁹ In accordance with this, the editor's main criticism was that in Godley's opinion, the colonists would enjoy power 'without check control or intervention of any kind', which amounted to an irresponsible power. Therefore, what checks or controls could be used if English colonies were to be given responsible representative institutions? British M.P. Charles Buller had previously discussed this at length, and after the publication of Godley's letter, the *Independent* serialised Buller's 1840 book 'Responsible Government for the Colonies'.¹⁰

In England, parliament consisted of two houses; the House of Commons, which was elected by eligible people, and the House of Lords, which consisted of aristocratic peers who, on a hereditary basis, held their positions for life. This two-tiered system of legislature, it was argued, provided a system of checks and balances, complementary roles of vital importance to the running of a smooth and liberal government. The editor of the *Independent* commented:

The object of an Upper House is to ensure for every law the benefit of a full consideration. It may be passed in haste and under

⁷ An important proviso to this definition that Godley provided was that the Home Government's prerogative of regulating relations with foreign powers must be retained.

⁸ Carrington, pp. 215 – 223. Also printed in the Auckland newspaper, *The New Zealander*, Supplement, Tuesday, May 22, 1850, pp. 1 – 2.

⁹ *The New Zealand Spectator and Cook's Strait Guardian*, Saturday, April 24, 1852, p. 2.

¹⁰ Charles Buller, *Responsible Government for the Colonies*, James Ridgeway: London, 1840. See also *The Wellington Independent*, Saturday, July 20; Wednesday, July 24, 1850, and Edward Murray Wrong, *Charles Buller and Responsible Government*, Oxford: Clarendon Press, 1929.

circumstances of violent excitement through one House – the other probably receives it in a cooler temper, and submits it to the scrutiny of an undisturbed judgement....They act as mutual checks upon the precipitancy of each other.¹¹

Therefore, the upper house was considered to be an essential ingredient to a responsible representative government. There were only two options for creating a check to a popular representative legislature in a colony lacking a hereditary aristocracy. ‘Option A’ was simply to elect an upper house in much the same way as the lower one. For many critics of the Colonial Reformers, this was an absurdity, as it would only create two matching popular bodies and an unworkable governmental machinery.¹² ‘Option B’ was the one Buller and the early colonial reformers advocated. Writing from the perspective of a colony that had already been granted a representative authority, Buller stated that all those who were proponents of responsible government for the colonies had, “confined themselves to demanding that the crown, while retaining the present unlimited choice of its servants, should nevertheless make a practice of selecting them from among those who possess the confidence of the Legislature.”¹³ This idea was, according to Buller, a founding concept of the Colonial Reform movement, and was lifted principally from the ideas expressed in the ‘Durham Report’ on Canada, where Earl Durham stated, “the change would simply amount to this, that the Crown would henceforth consult the wishes of the people in the choice of servants”.¹⁴ The idea was thus simply to have the Governor create an upper house via Nomineeism, but he should only choose members from amongst those the lower elected house could express confidence in. Through Buller’s idea, the Governor of the colony would still be in control, but the people had a theoretical influence in who made up this important body by voting wisely, for men who would act responsibly and without thought for faction or personal advancement in their votes of confidence in members of the upper house.

¹¹ *The Wellington Independent*, Saturday, January 4, 1851, p. 2.

¹² At a public meeting in Wellington held to discuss the propriety of requiring candidates for election under the 1852 Constitution to take a pledge of their responsibility to the constituents, Fitzherbert commented on this issue, “he had proposed that the Upper House should be elected and had suggested a limitation of the franchise, and such other restrictions as would prevent an unmeaning repetition of the other house.” Although the *Spectator* believed Fitzherbert had nothing but a childish desire to ‘pull the constitution to pieces’. *The New Zealand Spectator and Cook’s Strait Guardian*, Saturday, July 30, 1853, pp. 2 - 3.

¹³ Buller, p. 13.

¹⁴ Buller, p. 17.

The next roll of the stone for the 'Sisyphus'-like colonists of Wellington was encompassed in Grey's Provincial Council Bill, which brought attention to a new form of representational local self-government. On 2 November 1850, the *Independent* reported the 'glorious news' that Grey had recommended to the Home Government that representative institutions be adopted.¹⁵ Details were given in the *Independent* on 9 November, stating Grey had made provisions for provincial legislative assemblies, "based on as large and liberal a foundation of self-government as has yet been bestowed on any of the Southern colonies."¹⁶ Significant provisions of the new bill were for councils in every province consisting of two-thirds elected members and one-third nominees.¹⁷ The council's powers would be to originate measures, but the Governor would retain a power of veto. The editor of the *Independent* wrote:

regarded as a measure of self-government, it is entirely defective. The introduction of one-third nominees, and the maintenance (if such be the intention) of the old Civil List of £6000, strips it of all pretensions to such a character. Nevertheless it is a great step in the right direction....it will give the colonists a vantage ground from which to contend for the full reality of self-government, and in the meantime give them no insignificant amount of control over their own affairs.¹⁸

Early hopes were based on this belief, that despite the presence of nominees, whether they were selected via Buller's method or not,¹⁹ the attainment of elective provincial institutions was a great step towards controlling local affairs.

¹⁵ The Home Government agreed, stating, "Representative Government should no longer be delayed." *The Wellington Independent*, Saturday, November 2, 1850, p. 2.

¹⁶ *The Wellington Independent*, Saturday, November 9, 1850, p. 2.

¹⁷ The franchise was to be given to men aged 21 and over, and limited by a property qualification, including, possession "of a freehold estate of the clear value of £50; or occupying a dwelling house within the limits of a Town of the clear yearly value of £10; or in the country of the yearly value of £5; or having a leasehold Estate of the yearly value of £10." The councils were to meet at least annually, and elections would be conducted every two years. *The Wellington Independent*, Saturday, November 9, 1850, p. 2.

¹⁸ *The Wellington Independent*, Saturday, November 9, 1850, p. 2.

¹⁹ W. P. Morrell hints that just such a plan was generally advocated at a public meeting rejecting Grey's Provincial Council Bill. He states, "It wanted a permanent constitution framed for the colony by a General Council consisting of the chief officers of the Executive, and of members nominated by the Governor from individuals chosen by a public meeting in each settlement" W.P. Morrell, *The Provincial System in New Zealand, 1852 – 76*, Whitcombe and Tombs: Christchurch, 1964, p. 45. However, there was still the possibility of corruption as the members of an upper house thus constituted would be dependent more immediately on the Governor to maintain their position than on their re-election by the people. This eliminated direct responsibility for their decisions and actions to the people, which, as Birch stated, was essential to maintaining governmental responsibility.

However, by 7 December, after a public meeting on the issue, the editor announced that the 'public' had categorically rejected the bill. The principal reason for this was the realisation that the councils would likely become useless and expensive cumbrances on the provinces. The Governor's power of veto completely stripped the council's of any power to control local affairs like the expenditure of local revenue, and countered any excitement at the possibility of eliminating the 'irresponsible' Governor from interfering in matters of a purely local interest. The editor of the *Independent* commented:

under those provisions there is every prospect of the settlers being able to return to the Provincial Council the men of their choice. But what, they ask, can those representatives do when they are elected? What powers does the Council possess? The answer is that Sir George Grey has taken care so to tie their hands, and so to remove the Revenue from their control, that for any practical purpose there might just as well not be a representative in the Council at all.²⁰

The primary focus for the rejection of the Bill was thus this loss of power inherent to the composition of the Council's. For the Constitutional Association, and other supporters of immediate representative government, the curse of Sisyphus appeared to have struck again.

Whilst this public meeting rejected Grey's Bill, it also set up a committee run by and consisting solely of members of the Constitutional Association. The committee was to draft its own model constitution, which it thought would be suitable for the whole colony. The Wellington newspapers spent the whole of January in 1851 debating the meagre details available. The principal ideas released via the *Independent* centred on defining the quality of representation and responsibility the Committee felt was right for the present state of the colony. This they defined as being self-government composed of rule by a Colonial Office-appointed Governor who would have a power of veto that could be exercised on his own independence without reference to 'Home', which, in essence, was a similar power to that Grey intended to give himself in the Provincial Council's Bill. Furthermore, the 'Home' Government would have no power to interfere in matters of a purely local interest.

²⁰ *The Wellington Independent*, Saturday, December 7, 1850, p. 2.

At first glance, these ideas seemed to give Grey a greater measure of power than he already had, which was in total opposition to what the Association was attempting to achieve. However, by allowing him to act alone, this idea cut out all need to wait months to receive approval or denial from the Colonial Office for even the most trivial of matters, and allowed the colonists to appeal directly to the Governor rather than via him to England. The significance of this set-up was that the colonists would be able to force the Governor's accountability if he had the power to act on his own responsibility rather than hide behind the authority of the Colonial Office. His accountability would be secured with the Committee's proviso that although the Colonial Office would appoint the Governor, he could be removed by the will of the colonists. According to the Settlers Constitutional Association's constitution, accountability could only be achieved by rejecting nominees, no matter how selected, and electing a single legislature through a universal suffrage. These elected officials would be empowered to remove the Governor on a two-thirds majority.²¹

The purpose behind many of the ideas put forward in this report was to enforce the Governor's responsibility to the people of the colony. The report stated, "to this end it is essential to provide for the responsibility of the Executive, by making their offices dependent on their retaining the confidence of the colonists."²² The report left undecided the issue of constituting an upper legislature as the Committee believed a single House was enough until the colony developed further, but was willing to bow to the opinions of the Colonial Reformers and legislators of the Home Government if they decided an Upper House was necessary.²³ However, the report made it clear that no Upper House would be accepted if it were to be based on nominees. Instead, the people, via a 'universal suffrage', should elect the members only.²⁴ This marked the final rejection by the Settler's Constitutional Association of any kind of nominee principle, and marked them largely in the ranks of self-government and governmental responsibility via the means of 'option A' despite their

²¹ See *The Wellington Independent*, Wednesday, January 1, 1851, p. 2.

²² See *The Wellington Independent*, Saturday, February 1, 1851, p. 2.

²³ Although the *Independent* had previously concluded that any nominees in order to create an upper chamber of governance or to make up a third of any potential House of Representatives, "would err against uniformity of principle" *The Wellington Independent*, Saturday, June 29, 1850, p. 2.

²⁴ See *The Wellington Independent*, Saturday, February 1, 1851, p. 2.

ambivalence towards ideas on the need for an upper house. Therefore, the sum of the Committee's ideas on the constitution was to enable the colonists to force the Governor to be immediately accountable to them for his actions; they wanted him to be responsible to them directly and not via the circuitous and lengthy process of appealing to 'Home'.

However, the ideas of this Constitutional Association appointed Committee were not without their flaws, which the *Spectator* delighted in criticising. The *Spectator's* editor had three principal concerns. Firstly, that in providing such a liberal form of Government, which he noted was more liberal than any other of the older English colonies, the Home government were still expected to pay the colonies principal expenses and provide for its defence with no say in how the money was to be spent.²⁵ Secondly, that providing such a liberal suffrage would create the possibility of trouble with Maori, as there was no justifiable excuse to exclude them from the franchise whilst simultaneously submitting them to be taxed. A correspondent to the *Spectator*, titled 'An Englishman' even claimed that Chartism could not be the basis for New Zealand's Constitution. For this reason, this correspondent was fearful that if 'savages' who had an 'intellectually inferior' understanding of the English system of government, and who were in a numerical superiority, were allowed to vote, the result could be disastrous. In his view, the only way to safely tax the 'natives' without giving them dangerous electoral power was through the principal of using nominees. That way, the Governor and the colonial office would be their representatives in the Government.²⁶ Thirdly, having both the Governor and the Judges subject to removal by two-thirds of an elective legislature, which would also have the power to set and re-set at will those officials salaries, was in the editor's opinion, political corruption waiting to happen.²⁷

Wellington's majority rejection of Grey's Bill at this meeting was a chief cause, along with the break down of Grey's nominee Legislative Councils of

²⁵ *The New Zealand Spectator and Cook's Strait Guardian*, Saturday, January 4, 1851, p. 2, and Saturday, January 8, 1851, p. 2.

²⁶ *The New Zealand Spectator and Cook's Strait Guardian*, Saturday, January 8, 1851, p. 2. This was assumedly via the fact that the Treaty of Waitangi was signed by the Chiefs of New Zealand and the British Crown, whereby it was believed that Maori had nominally ceded their sovereignty to the Crown.

²⁷ *The New Zealand Spectator and Cook's Strait Guardian*, Saturday, January 4, 1851, p. 2.

New Munster and New Ulster, for the reformation of the General Legislative Council that had lain largely dormant after the governorships of Hobson and FitzRoy. Grey needed a legislative authority in order to effectively administer his government, and also in order to pass his seemingly unpopular Provincial Council's Bill. Running from late May to early August in 1851, the newly reconstituted General Legislative Council consisted of ten officials and four non-official members. Its deliberations, primarily on Grey's Provincial Council's Bill, were criticised heavily by the *Independent* as being weak, ineffectual, and generally a huge joke.²⁸ Criticism also focussed on what was perceived as the council's fundamental illegality, based on the *Independent* staff's interpretation of Grey's Instructions and the Suspending Act of 1848.²⁹ By their reckoning, the Council was illegal primarily because it was not constituted of the correct government officials, as the three top Magistrates had refused to join.³⁰ The editor of the *Independent* further commented, "If by the present move, they [the magistrates] have not absolutely checkmated him, they have given him what is tantamount to a stalemate....any laws which may be passed, will be only so much waste paper."³¹ This raised the question of what would happen if there was any refusal to obey the laws if they were passed by a theoretically illegal governing body.³² By obvious contrast, the *Spectator* was supportive of the Council and gave over several columns of space in each issue to reports of the sessions in as full a description as possible.

The deliberations on the Bill evident in reports from both the *Independent* and the *Spectator* show an obvious concern from the non-official members and Lieutenant-Governor Eyre, over issues of responsibility. These feelings came to a head on Tuesday, 17 June 1851 at a session of the Council that focussed on the Bill. Lieutenant-Governor Eyre proved himself responsive to perceived public demand in this instance by unequivocally rejecting the Bill. The *Independent* praised his actions, stating, "he has had the courage officially and authoritatively

²⁸ When reporting on the opening session, the editor of the *Independent* remarked, "We cannot however forebear congratulating our fellow settlers, upon the triumphant position, in which they at present stand. If the late Provincial Council afforded them a source of infinite merriment, the present council promises to keep them in a state of perpetual and unceasing laughter", *The Wellington Independent*, Wednesday, May 21, 1851, p. 3.

²⁹ See *The Wellington Independent*, Wednesday, May 28, 1851, pp. 2 – 3.

³⁰ See *The Wellington Independent*, Saturday, May 31, 1851, p. 3.

³¹ *The Wellington Independent*, Saturday, May 31, 1851, p. 3.

³² This issue was raised briefly in *The Wellington Independent*, Wednesday, June 4, 1851, p. 3.

to proclaim it. He has in this instance discharged his duty to the New Zealand colonists nobly and manfully.”³³ The *Spectator* commented on Eyre’s action through satire:

When next you to the Council go,
For freedom make a zealous show;
Be bitter on the Nominees,
Talk any nonsense that you please;
Try a left-handed blow to strike,
Affect support, and hint dislike.
A clever project, I declare;
Say, don’t you think so, Mister ----? ³⁴

While the *Spectator* paid little more attention to arguments made in Council against the Bill, the *Independent* highlighted and discussed them at length in subsequent editorials.

Eyre had begun his argument by stating that it had been too long since Grey had first introduced the idea of Provincial Institutions as suggested in the Bill, back in 1848. He believed the public – especially in Wellington – were no longer in the right frame of mind to accept such a governmental framework when they had been kept waiting for representative institutions with responsible officers, for so long. The key issue held against the Bill was of course the principle of nominees. The *Independent* specifically identified ‘Mr Commissioner Bell’ as stating, “he had no objection to one-third, or one-half of the members of the Council being Nominees of the Crown, provided the power was accompanied by official responsibility.”³⁵ His argument carried on into the next, rather confused session, where Bell re-iterated he would be prepared to accept nominees if they were somehow made responsible for their acts and moved an amendment to the Bill to secure the responsibility of any future nominees to the *Crown*.

In seconding the amendment, Mr Petre commented that, “no Council could possibly work without the officers of the Executive Government were members of it. It needed no argument to prove, that in this country, what was

³³ *The Wellington Independent*, Saturday, June 21, 1851, p. 2.

³⁴ *The New Zealand Spectator and Cook’s Strait Guardian*, Wednesday, June 25, 1851, p. 2.

³⁵ *The Wellington Independent*, Saturday, June 21, 1851, p. 2.

called a responsible government could not exist.”³⁶ This was because, as critics of the Constitutional Association’s constitution had claimed, an executive or upper house could, or rather should not be elected, as it ran on the principle of inherited aristocracy. In a new colony such as New Zealand, there was no aristocracy and hence no basis for an upper house except through the principle of Nomineeism. Responsibility was through government officers to the Crown – the source of English power. He gave the example of bloodshed in Canada, and blamed responsible government for it. Petre, who somewhat contradictorily used it as an argument against the amendment, made further comment on this. He argued that Nomineeism would secure the service of men of ‘high attainment’ and ‘great worth’ that would be shut out if representation and responsibility were allowed to develop to their fullest extent. Daniel Wakefield saw in this argument a hint of those used to champion the cause of the rotten boroughs before the passing of the Reform Bill in England.

The issue was closely tied to a fear highlighted in Buller’s work, of power gained by the ‘people’. Wealthy men had seen in the recent past, not only increasing gains in political power in England by the ‘common man’ but also violent and bloody ‘People’s’ revolutions spread across Europe.³⁷ The thought of giving power – via representative institutions whose members were responsible only to its electors and not to the power of the Crown or the Home Government in a colony with a majority of ‘savages’ in comparison to English citizens was for many unthinkable. Their anxiety was expressed in arguments during this session of the Legislative Council, that responsible officers in a representative government would mean the exclusion of an older elite who were perceived to be the best suited for governmental office. As the Attorney General Daniel Wakefield expressed when discussing the aftermath of the Reform Bill in England:

It was contended then that men of great talent and possessing legislative abilities were admitted into Parliament that would have

³⁶ This is the original sentence structure. The Hon. H. W. Petre, in the Report of the Session of the Legislative Council held on Tuesday, June 24, 1851, printed in *The Wellington Independent*, Wednesday, June 25, 1851, p. 2.

³⁷ For example, a single issue of the *Independent* in August 1848 contains reports of electoral reforms in Sicily, Belgium and Denmark, as well as a ‘Revolutionary Movement in Sweden’, a ‘Rumoured Insurrection in Russia’ and in Hanover, ‘Concessions of the King’. *The Wellington Independent*, Saturday, August 5, 1848, p. 4.

other wise been shut out; and though this argument was not recognised at the time, the question now was whether the abolition of those boroughs had, or had not been a public benefit. Members who had been sent in by a mob could be much more abject, much more crawling, and much more contemptible than those nominated by the Crown. We were in an infantine transition, an infant community, and therefore the argument in favour of Nominees of the government was much more feasible here than in the mother-country³⁸

Here the members of the Legislative Council, nominee and official alike seemed to believe that nominees were in the best interest of the future of the colony. They had taken up the cause of 'option B'.

Bell's amendment was defeated by a majority of three. Eventually, and despite the efforts of the Settler's Constitutional Association, the Council passed the Provincial Council's Bill on 9 July 1851.³⁹ On the same day, nominee Hickson resigned under a minor cloud of controversy. However, the new provincial councils were never constituted. Grey became distracted by attempts to establish municipalities in New Ulster,⁴⁰ but more importantly, a new constitution was anticipated from the Home Government, which the Constitutional Association believed would finally be the representative government they had so long agitated for, and which Grey believed would in no way contradict his efforts to establish a balance in government of popular influence and colonial control.⁴¹

When these rumours became a reality, and the first drafts and debates on the new New Zealand Government Bill became available for publication and discussion by the newspapers, hope had once again been restored to those who sought the full institution of representative government in the colony. A final solution to the perceived long running governmental problems was thus perceived as a fresh inevitability. There was a feeling, particularly expressed in the *Independent* that a power reversal would soon occur. Grey had instead been cast in the role of Sisyphus trying to move a nominee rock up a hill of representative and responsible self-government – never achieving his goal.

³⁸ Mr D. Wakefield, in the Report of the Session of the Legislative Council held on Tuesday, June 24, 1851, printed in *The Wellington Independent*, Wednesday, June 25, 1851, p. 2.

³⁹ Morrell, p. 46

⁴⁰ A.H. McLintock, *Crown Colony Government in New Zealand*, R.E. Owen, Government Printer: Wellington, 1958, p. 251.

⁴¹ J. Rutherford, *Sir George Grey K. C. B., 1812–1898: A Study in Colonial Government*, The Camelot Press: London, 1961, p. 247.

Therefore, a principal issue explored in searching for solutions to the responsibility issue perceived in Wellington, was the necessity of an upper house. On one side were those who wanted to enforce the Governor's responsibility by giving a single elected legislative authority the power to remove the Governor, thereby securing his responsibility directly to the people of the colony over and above the Colonial Office. The other argument was put forward as a counter to such 'popular' authority, in that an upper house was necessary as a check on the lower house and the possibility of rule by a 'mob', which was seen as being just as unconscionable as rule by an exclusive elite. This created a measure of insurance on the responsibility of the government. In their opinion, however, the only palatable, or non-repugnant way to create an upper house in a colony lacking a hereditary aristocracy was through the principal of nominees. Thus a kind a stalemate was reached, as both were incompatible solutions to the perceived inadequacies of existing or suggested solutions to the governmental responsibility issue. When the 1852 Constitution was announced, it subscribed to the second of these ideas, but theoretically gave the real power to those who subscribed to the first.

Many perceived the principal benefit in the constitution, aside from the great power given to the House of Representatives, was to be had via the Provincial Councils. Although intended to be entirely subservient to the General Government, many saw in the council's the opportunity for locally based power, not only in order to achieve that long sought after desire to have local self-government, but perhaps, as McLintock has argued,⁴² they saw an opportunity to have as much power as Lieutenant-Governors in their own province.⁴³ Many of the early councils certainly set out to dominate the political scene in their local areas, including Wellington. The next section evaluates the period of the inauguration of the 1852 Constitution and further dual understandings of

⁴² He wrote, "From the moment of their inception, the Councils were determined to make themselves the dominant political force in the colony. While the Superintendents, not to be out-done, were more than eager to assume the trappings, if not the name, of Lieutenant-Governors." McLintock, *Crown Colony Government*, p. 359.

⁴³ This desire was encompassed in one of the Wellington Provincial Councils first acts, the 'Empowering' Bill, "to vest in the Superintendent certain powers heretofore vested in the Governor and Lieutenant-Governor of the Province." *Wellington Provincial Council Acts and Proceedings Session 1, 1853 – 1854*.

responsibility discussed throughout the elections for the Wellington Provincial Council and General Assembly.

II

'The Glorious Uncertainty'

Dual Understandings of Governmental Responsibility Under the New Constitution

The '1852 Constitution' was finally officially received on 22 December 1852, and proclaimed in the *Independent* on 19 January 1853. The Constitution provided, via clauses two to thirty-one, for the division of the colony into six separate provinces, each with its own elected provincial government headed by a Superintendent. Clauses thirty-two to sixty-nine established a General Assembly consisting of the Governor, a Legislative Council modelled on the English House of Lords, and a House of Representatives intended to serve a similar function as the English House of Commons. New Zealand's House of Representatives was to initially comprise of twenty-four to forty-two members, and was to be elected every five years by a franchise consisting of a small property qualification. The Legislative Council, however, was not to be elected. Instead the Governor was given the power to nominate whomever he desired. It was to be comprised of no less than ten members who would be elected for life. Among other predictably controversial clauses, the constitution gave Grey, in his role as Governor of the colony, wide-ranging powers of control over these new institutions. He and his successors had the power to establish the size and manner of bringing the first parliament into session, the right to set elections in motion, the right to summon, prorogue and dissolve parliament, and also to veto the election of the Superintendents of the various provinces.⁴⁴ This meant that the Superintendents were not free from the possibility of becoming irresponsible officers as their position was consequently just as dependent on the patronage of the Governor as on the 'people' after the initial election. Grey's desire to keep tight reins on government in the colony appeared to have been vindicated by the Colonial Office.

A central focal point for early criticism of the Constitution was, unsurprisingly, the composition of the Legislative Council, as it was built entirely on the concept of Nomineeism. As a principle of governance for New

⁴⁴ McLintock, "Appendix D: 'The Constitution Act of 1852'", in *Crown Colony Government* pp. 417 – 433.

Zealand, it was even condemned at the 'home' parliament. For example, the Duke of Newcastle described the whole concept as a 'shadowy' and 'unreal theory'.⁴⁵ Under the provisions of the Constitution, the nominee's would be entitled to their positions for life, and so, in one interpretation, would therefore operate without direct check by the elective portion of government. Another interpretation would suggest that due to the fact that the nominees were indentured to the Legislative Council for life, they would be authorised to act with independence from the influence of the Governor. The flip side of this was of course that they would also be independent from the influence of the elective House of Representative, creating autonomous, irresponsible governmental officers. But despite this most obvious of flaws, and the criticism levelled at the Constitution from the editor of the *Independent*,⁴⁶ once again some early opinion expressed was in favour of the acceptance of the new idea, in terms of trying to make the best of a flawed situation.⁴⁷ This marks the most significant difference between this constitution and all other attempts to form a workable government in the colony. It was the dissemination of belief that the elected portion of the government would be the most powerful.

The difference lay in early interpretations expressed in the *Independent* of clauses in the Constitution that would give the House of Representatives the power to remake itself as it saw fit. Clauses LXVII, and LXVIII, stand out particularly in illustration of this. These clauses provided the General Assembly with the power to alter the system of elections, including the power to create new

⁴⁵ *The Wellington Independent*, Wednesday, November 3, 1852, p. 2, and McLintock, *Crown Colony Government*, p. 341.

⁴⁶ The editor exclaimed, "the public would not stand the social pretensions of a red-tape nobility, picked out of the refuse of our local politicians." *The Wellington Independent*, Wednesday, September 15, 1852, p. 2. He later criticised, "A Nominee Council, worse than a Tooley-street oligarchy, aping a House of Lords in New Zealand! The thing is so absurd – so childishly, savagely, brutally absurd, - that one does not know whether to laugh or cry, at the incredible folly and ignorance of those who projected it." *The Wellington Independent*, Wednesday, October 27, 1852, p. 2.

⁴⁷ The editor of the *Independent* commented, "The defects we have pointed out are, nevertheless of little practical importance. The machine has very good powers of self action and self regulation..." *The Wellington Independent*, Wednesday, September 15, 1852, p. 2. "Lord Wodehouse apprehended that the bill was open to many theoretical objections, but thought that its defects might be remedied by the large powers of adjustment for which allowance had been made." *The Wellington Independent*, Wednesday, November 3, 1852, p. 2. "Time and experience will disclose all things; but, meanwhile, we have no objection to accept the Bill *under protest*, and to try to turn it to the best account we can, for the benefit of the public." *The Wellington Independent*, Saturday, November 13, 1852, p. 3.

electoral districts, alter existing boundaries and change the elector qualification. Significantly, it also provided the power to increase the number of representatives for both the Provincial Councils and the House of Representatives. In essence, these clauses meant that the Legislative Council with its nominees and the elective House of Representatives would be forced into placing confidence in each other in order to exercise government for the colony, as these 'powers of alteration' would no longer be within the power of the Governor to execute once the government was brought into existence. Consequently, this gave a significant amount of control over the destiny of the Colony into the hands of the elected portion of the Government.⁴⁸ It was a significant step forward in self-government from previous attempts, which had only secured a nominee council with no power of influence over the will of the Governor. For this reason, the *Independent* reported that even if the Bill contained more defects than they had already identified, "it would be still worthy of the colonists acceptance. These clauses will, in point of fact, enable the colonists to frame a constitution for themselves, and according to their own wishes; for the powers of the upper house, though nominally equal to that of the House of Representatives, will not really be so."⁴⁹

However, Grey consistently delayed the full inauguration of the constitution in the early months of 1853 as he made preparations for his eventual departure from the colony. Slowly, each part was proclaimed through the medium of the newspapers, and as the *Independent* noted, he postponed the initiatory clause of the Act until the last possible moment.⁵⁰ The delay caused the editor to comment, "We have seen so many Acts, both of the Imperial Parliament and of the Local Legislature set to naught, and treated as so much waste paper, that we have long since come to the conclusion that the only object in manufacturing Constitutions and in making laws for New Zealand, has been, in order that they may be burked, violated, and rendered null and void."⁵¹ This was what the editor called the 'Toss-up system' or the '*Glorious Uncertainty*' of the

⁴⁸ "The great blot and blunder in the project is the Nominee Legislative Council, not so much, perhaps, from any dangerous power it would wield, in the face of a real House of Representatives, as from its uselessness and absurdity." *The Wellington Independent*, Wednesday, September 15, 1852, p. 3.

⁴⁹ *The Wellington Independent*, Saturday, August 28, 1852, p. 2.

⁵⁰ *The Wellington Independent*, Saturday, April 2, 1853, p. 2.

⁵¹ *The Wellington Independent*, Saturday, April 2, 1853, p. 2

colony.⁵² His paranoia was not to last for long however, as by April, electioneering for the Provincial Council of Wellington had begun in earnest.

Despite optimism expressed in the *Independent* on the ability of the General Assembly to work effectively and responsibly for the electors, much of the focus of both newspapers was placed on these local elections, rather than those of the General Assembly. This was because of a perception, which the *Independent* also advocated, that the Provincial Councils and the Superintendent would hold more meaningful power than either of the two houses of central government. In August 1852, the editor praised the Constitution for “the abolition of the expensive and useless office of the Lieut. – Governorships and the appointment of Superintendents in their place.”⁵³ The Superintendents were thus advertised in the *Independent* as standing in the place of former government officials such as Lieutenant – Governor Eyre. At a meeting held to request the service of I.E. Featherston as Wellington’s first Superintendent, Fitzherbert went even further in the interpretation of the theoretical power inherent to the Superintendents, stating that their role was to be as a “*counterpoise* to the Governor-in-Chief – a man to stand in the gap between the colonists and their imperial ruler, *a ready and transparent channel for the transmission of the wishes and wants of the settlers in unpolluted purity.*”⁵⁴ These interpretations of power stem from clause XVIII of the Constitution, which gave the Superintendent and the Provincial Council the power to make all the laws and ordinances to govern the province, on their own authority, although subject to a power of veto held by the Governor.⁵⁵ Considering this perceived power, it is interesting to note that no other candidate contested the election of the Superintendent.

⁵² *The Wellington Independent*, Saturday, April 2, 1853, p. 2

⁵³ *The Wellington Independent*, Saturday, August 28, 1852, p. 3.

⁵⁴ *The Wellington Independent*, Wednesday, April 20, 1853, p. 3. The *Spectator* replied, “in plain English he seems to think the Superintendent should be the head of a clique or faction and his chief recommendation that he should be always in a state of political antagonism, of factious opposition to the head of the Government. He assumes that the settlers are always in a state of downright hostility to the Governor, who can never have the slightest chance of knowing their wishes and wants.” *The New Zealand Spectator and Cook’s Strait Guardian*, Wednesday, April 27, 1853, p. 3.

⁵⁵ “It shall be lawful for the Superintendent of each Province, with the Advice and Consent of the Provincial Council thereof, to make and ordain all such laws and ordinances (except and subject as hereinafter mentioned) as may be required for the Peace, Order and good Government of such Province, provided that the same be not repugnant to the law of *England*.” McLintock, *Crown Colony Government*, p. 420.

The election for the city of Wellington's seven available seats on the Council was however hotly contested among sixteen candidates. A significant issue debated amongst candidates was the interpretation of governmental responsibility and whether the candidates should take pledges of their responsibility to the electors of Wellington. At his meeting, Featherston declared:

by the term Responsible, I mean, that system of Government under which, the chief administration of affairs, is entrusted to those, who possess the confidence of the Representative body – that system of Government, under which the Chief Executive officers, or Heads of Departments, as we term them here, must consist of those who have both obtained seats in the Legislature and can command a majority, in support of the measures, which they, as the Ministers of the day, may deem it advisable to bring forward:- I mean in short, Government by the Leaders of the Parliamentary majority.⁵⁶

For Featherston, anything less than such a responsibility would only ensure the perpetual collision of the executive and the legislature.⁵⁷ Despite Featherston's definition of governmental responsibility, two different understandings emerge from the pledges, promises and descriptions offered by the other candidates for seats on the Council.⁵⁸ It was a duality that the *Spectator* did not fail to criticise. On 3 August a poem appeared that highlighted this with some accuracy, but with a bias towards the definition the *Spectator* favoured, entitled 'Some People Have Different Opinions':

Some people think *Responsible Government*
Requires security of seats to members for four years
And divisions of offices among the majority members
Other people think *Responsible Government*
Admits no scrambling for place, and
That members should continue only so long as the electors think fit.
The one opinion supposes
Confidence of the electors in their representatives
The other opinion supposes
Confidence of the representatives in their electors

Which of the two opinions comes closest to
Self-government
It is for the electors to determine.⁵⁹

⁵⁶ *The Wellington Independent*, Wednesday, April 20, 1853, p. 3.

⁵⁷ *The Wellington Independent*, Wednesday, April 20, 1853, p. 3.

⁵⁸ See Appendix D II.

⁵⁹ *The New Zealand Spectator and Cook's Strait Guardian*, Wednesday, August 3, 1853, p. 3.

The *Spectator* saw Featherston's definition as desiring power for one class or one faction within the Council rather than describing the parliamentary system of confidence in a majority. The editors' definition of responsibility centred on how the representatives would be tied to the confidence of the electors. This duality of understanding of responsible government formed the basis of division at the first public meeting held in connection with the elections.

Its purpose was to discuss the propriety of requiring the following pledge as a necessary qualification for the candidates, "that in the event, of their forfeiting the confidence of their constituents, they will return the trust into their hands, upon receiving a requisition to that effect signed by a majority of the electors."⁶⁰ William Allen, the mover of this resolution saw it as a necessary check and rein on those who would be elected as representatives of the constituency of Wellington in order that they do not enter their office with the desire to only represent themselves and their own opinions. The next speaker, Mr Carter, declared this pledge "a mild pill of flour and water...it rests with you this evening to add Epsom Salts, Rhubarb and Senna to it in the shape of cheap land, land tax and Company's debt, for we must purge our candidates from all impurities."⁶¹ For Carter, the pledge was a weak check, as any man might pledge himself to it, vote against the wishes of the majority for his own benefit, and then dutifully resign after the damage had been done. The three issues of cheap land for the chance of future advancement for all European colonists regardless of class, a land tax to ensure the cheap land is not bought up en masse by absentee landlords, and the thorough investigation and repudiation of the New Zealand Company's debt being placed on the colony, were the most important issues currently facing the colony to which a majority was perceived to support. Carter wished to have support for these three issues added to the original pledge to ward off the danger he saw in its adoption, as he had noted that ten candidates had made no mention of their opinion on the New Zealand Company debt, eight had not alluded to the land tax, and three had as yet made no mention of their policy on cheap land.⁶²

⁶⁰ *The Wellington Independent*, Saturday, July 30, 1853, p. 3.

⁶¹ Report of *The Wellington Independent*, Saturday, July 30, 1853, p. 3.

⁶² Report of *The Wellington Independent*, Saturday, July 30, 1853, p. 3.

Fitzherbert was the next to speak, and he expressed his vehement opposition to the idea of taking a pledge to ensure the responsibility of members to the people, whilst somewhat contradictorily expressing his general approval of the amendment suggested by Carter. He had refused to take the original pledge for six reasons:

1. It was unjust to the inhabitants of the colony – because a member might thereby be called to resign, although he at the same time possessed the confidence of the majority.
2. It was unfair to the Representative himself; inasmuch as it destroyed that independence which every member of a deliberative assembly ought to hold sacred.
3. It was injurious to the Constitution.
4. It was fraught with danger to the interests of the community in critical times, as tempting members to vote for measures brought forward under excitement, for fear of losing their seats.
5. Because it would open the door to political intrigue
6. That it was unsupported by the practice of candidates for seats in the House of Commons.⁶³

Whilst these objections to the pledge were all well conceived, Fitzherbert subsequently agreed to resign his seat, if he were elected, were he to change his opinions from those printed in a circular he had distributed. This further contradicted his vehemence against the idea of making a pledge before the election's, which would therefore destroy his independence to act in the best interests of the community. The meeting concluded with a vote carried in favour of both the pledge and the amendment, which led to the break up of the meeting in an uproar,⁶⁴ as the *Independent* reports that the show of hands was actually against the pledge by a majority of at least three to two, if not more.⁶⁵

In essence, the pledge was asking of the Wellington candidates the same thing the Constitutional Association had been asking of Grey prior to the creation

⁶³ Report of *The Wellington Independent*, Saturday, July 30, 1853, p. 3.

⁶⁴ Other candidates and members of the public, including Hart, Moore R. J. Duncan, Allen and A. Brown, either declared their support for the pledge and amendment, or stated that they had already voluntarily taken the pledge as part of their candidacy, *The Wellington Independent*, Saturday, July 30, 1853, p. 3.

⁶⁵ Report of *The Wellington Independent*, Saturday, July 30, 1853, p. 3. The *Spectator*, making no comment on the controversy of the Chairman carrying the vote in the resolution's favour, notes that Fitzherbert and his supporters tried in vain to overturn the decision at the meeting formed immediately after the pledge meeting's dissolution. *The New Zealand Spectator and Cook's Strait Guardian*, Saturday, July 30, 1853, p. 3.

of the 1852 Constitution. The Association's own version of a constitution for the colony held the Governor totally accountable to the electors in much the same way, as the pledge required the immediate accountability of the candidates. What is interesting to note is that the majority of candidates and citizens who publicly announced their support for the pledge were also publicly avowed government supporters who had previously vehemently criticised the Association's constitution. Those who had shown antagonism towards the pledge, or those who had studiously avoided entanglement in the debate on it included the six Association members who were candidates.⁶⁶ Had the former members of the Association been 'found out' as selfish place-hunters rather than liberal advocates of people's rights, by this controversy over the pledge of responsibility?

On the surface, it appeared to many critics, that the former Association members, by not taking the pledge, had undermined their credibility as stalwart supporters of constitutional freedoms for the people. They had demanded responsibility of Grey via the means of the ability to remove him on the vote of a majority, but when the time came for them to promise to submit to the same kind of scrutiny, they refused, or avoided becoming embroiled in the debate on the responsibility of the candidates to the electors of Wellington. Featherston defined governmental responsibility as that which exists within a freely elected parliament between the heads of government and the individual members of parliament who hold confidence in their leadership. This definition was in keeping with the Association's assertion that Grey and his officials did not hold the confidence of the people of the colony. This was a fatal element of the Crown Colony system of government as the Governor and his officials could only be removed by the English Colonial Office. The issue at hand during the pledge debate was ensuring that Featherston's responsible parliament was not only responsible within and to itself, but also responsible directly to the people, just as Grey and his government had not been. Former Association member Robert Waitt stated that the way forward was not through pledges, which he disliked, but "when the opinion of the representatives on general subjects differs with those held by a majority of the electors it is then I consider the duty of the

⁶⁶ See Appendix D II.

representative to resign his trust into the hands of his constituency.”⁶⁷ The key to this was the word *duty*. It was the duty and the responsibility of a representative to resign his seat once confidence was lost for whatever reason, and encompasses all three of Birch’s definitions of what makes a responsible government.

The pledge on its own did not contradict this understanding of responsibility per se. In its original incarnation it was perceived by its supporters as merely a formal promise to adhere to the relatively newly established unwritten rule of governance. However, pledging responsibility created the potential for corruption, and as a consequence, irresponsibility. This concern was especially relevant when the pledge to adhere to certain policies was added, for all the reasons Fitzherbert had highlighted.⁶⁸ The pledge demanded a governmental system which was, like Birch’s first definition, totally responsive and accountable to the public will, but which made no allowance for Birch’s second definition: the legitimate duality between responsiveness to the public, and the need for government to make policy in opposition to the public if it was deemed to be in their best interest, even to the point of risking any chance at re-election. The fear the ‘pledgers’ held was that even though there would soon be a governmental system in place where the confidence they expressed in their representatives made a difference, it would still be used to prolong the perceived problems in the colony, and specifically in Wellington, for the sole benefit of the officials.

Once again, there was a dual understanding of responsibility being expressed in the colony, but to all intents and purposes the positions of the factions on the definition of responsibility of government had somewhat reversed. Both had correctly identified elements essential to creating a responsible government, but the pledge issue particularly had somewhat limited its fullest potential. Despite this debate, the new constitution had created the potential for a significant advancement of governmental responsibility for the Colony that the politically minded souls of Wellington would soon take advantage of. The question remains, would all the talk, and ideas expressed on

⁶⁷Robert Waitt’s Electoral Advertisement, *The New Zealand Spectator and Cook’s Strait Guardian*, Wednesday, July 13, 1853, p. 3.

⁶⁸Many of the pledge supporting candidates made no distinction between resigning on the request of a majority of the Wellington constituents, on a majority of those who elected him or his supporters, or even at the request of any fifty men. See Appendix D II.

governmental responsibility be successfully made into a reality in the Provincial Council of Wellington, and via Wellington's representatives in the General Assembly? And also, to what extent did issues surrounding governmental responsibility invite any popular agitation or protest either for or against the new constitution once it was inaugurated? The next section looks at these key questions and assesses the individuals and motivations behind the shift from powerless oppositional factions to powerful individual legislators.

III

‘An Apathetic Electorate?’

A Statistical Assessment of Popular Involvement in the Wellington Provincial Council Elections in 1853

An event that would facilitate an assessment of the level of popular involvement in local politics during this period of concern about governmental responsibility is the actual election of members to the Provincial Council of Wellington and General Assembly. This section analyses this election by making a statistical analysis of the figures available, including number of votes cast, electoral roll numbers and available age distribution data. The following table depicts the election results for both the Provincial Council and the General Assembly elections. The numbers to the right of the names indicate the number of votes each successful candidate received. Where no numbers are present, this indicates that the representative was elected unopposed in that district.⁶⁹

	City of Wellington District	Wellington Country District	Hutt District	Wairarapa and Hawkes Bay District	Wanganui and Rangitikei District			
Provincial Council	Clifford	281	Brandon	123	Renell	170	Gollund	Harrison
	Dorset	272	Waitt	102	Wakefield	168	Revans	J. Watt
	Fitzherbert	255	Brown	96	Ludlam	168		Richards
	Moore	253	Schultze	43	G. Hart	158		
	Wallace	266	Gibson	24	Mason	51		
	Lyon	203			Daniell	39		
	Bethune	195			Sellar	37		
	Kelham	188						
	May	180						
	Hart	179 or 171						
	Masters	154						
	King	145						
	Rhodes	48						
	Carpenter	33						
	Fawcett	29						
Bradey	5 or 16							
House of Representatives	Clifford		Rhodes	74	Ludlam		Revans	Featherston
	Hart		Brown	42	Wakefield			
	Kelham							

⁶⁹ Results for the election of members to the Provincial Council from Wanganui and Rangitikei district were printed in *The New Zealand Spectator and Cook's Strait Guardian*, Wednesday, September 7, 1853, p. 3. It is unclear if the two members were elected unopposed, by a clear show of hands, or by a poll. The shaded areas indicate the successful candidates.

Surprisingly, these elections were reported by both newspapers as running smoothly and were largely conducted in the absence of factional disputes, which had for so long dominated Wellington's political landscape. What made it so surprising was that prior to the election factional politics had somewhat dominated the campaign. In addition to the pledge issue, there were allegations made in the *Spectator* immediately before the election, that the seven former Association candidates had held a meeting and formed a 'coalition' in order to ensure their election as a group to the council. 'We are Seven' was the heading which led the *Spectator's* editorial of 6 August, declaring the action by these candidates as being comparable to the behaviour conducted by members of the English Parliament formerly elected by rotten boroughs.⁷⁰ The *Independent*, however, reported that this meeting was conducted by the 'General Committee of the Liberal Candidates',⁷¹ as a kind of prototype liberal party; a loose association of men who "have long struggled for liberal principles, for representation and responsible government, [and who were] now at length fairly arrayed against their old opponents the *nominees*."⁷² This editor saw the election only through the lens of the old factional divide, reducing the complicated and varied positions of each of the candidates down to a simple 'us v. them' scenario, stating after the election, "The forces of the two parties were fairly marshalled, - on the one side stood the *Nominees*, *Pledgers* and *Wakefieldites* - on the other stood the old and true friends of Responsible Government."⁷³

Another problem facing the organisers of the election was the widespread perception that the election had been initially received by the citizens of Wellington with disinterest and even abject apathy. In July the *Spectator* noted this, stating:

the approaching election of members for this province for the Provincial Council and House of Representatives do not appear to excite much interest in the public mind. Beyond the efforts made by certain *liberal* candidates, and their friends in canvassing for votes,

⁷⁰ The editor asked, "are the electors willing tamely to submit to this dictation? Will they trust men who demand unlimited confidence of the electors, and refuse in return to put any confidence in them: - who profess to be champions of Responsible Government. And yet desire to be irresponsible to themselves?" *The New Zealand Spectator and Cook's Strait Guardian*, Saturday, August 6, 1853, p. 3.

⁷¹ *The Wellington Independent*, Saturday, August 6, 1853, p. 3.

⁷² *The Wellington Independent*, Saturday, August 6, 1853, p. 3.

⁷³ *The Wellington Independent*, Wednesday, August 10, 1853, p. 3.

these Representative Institutions now that they are on the eve of being brought into operation, in spite of the agitation which for some years past has been industriously kept up by certain parties, seem to be regarded generally with indifference.⁷⁴

Despite claims to the contrary by correspondents to the *Independent*,⁷⁵ even the editor of this paper had noticed a lack of interest on the part of the general public. In June, an editorial stated, "The apathy which seems to manifest itself in all matters connected with the approaching election, appears to us to be almost unaccountable. Several candidates have, it is true, issued addresses to the electors, but beyond this very little interest appears to be felt."⁷⁶ Even at the meeting to discuss the pledge issue in late July, William Allen who was one of the primary organisers commented on the lack of interest and apathy displayed by the general public. Two questions pose themselves in this situation: was this an accurate perception of the enthusiasm in Wellington for the first truly elective and representative authority to be conferred on the colony, and did it change once the elections became imminent?

In early July, a meeting was held to elect a man to take the office of Superintendent. Only one man canvassed for this job and no one else was nominated for election. I. E. Featherston was duly elected unopposed to the position. At this early meeting held to nominate him for the job, a massive total of 500 men signed the document asking him to run. This total included many of the candidates who later ran for positions on the Council.⁷⁷ Significantly, this number almost equalled the total number of City of Wellington electors. After his election, in Featherston's acceptance speech, he noted the strange mix of men present to vote for him, including friends as well as enemies, and the presence of men not usually noted for their participation in or attendance at public meetings. He displayed embarrassment at the level of confidence shown in him to fulfil the office that no one else ran for. The whole scenario implies he was a popular choice that crossed factional rivalries, and that apathy was not a distinctive

⁷⁴ *The New Zealand Spectator and Cook's Strait Guardian*, Saturday, July 20, 1853, p. 2.

⁷⁵ See 'Original Correspondence' in *The Wellington Independent*, Saturday, July 23, 1853, p. 3, for an example.

⁷⁶ He continued, "Where are the election committees of the several candidates? Where are the meetings which generally precede the election of members to a Representative Council, for the purpose of declaring their political principles?" *The Wellington Independent*, Wednesday, August 10, 1853, p. 3.

⁷⁷ *Wellington Independent*, Wednesday, April 20, 1853, p. 3.

element to his election as Superintendent. However, despite the large number of people who proposed him for the job, the voter turnout for his election was a significantly smaller number. The *Spectator* makes almost no reference to the election at all, but stated that the turnout was limited to only 100 men.⁷⁸ In contrast, the *Independent* dedicated nearly six whole columns to its report on the election and believed up to 250 persons were present.⁷⁹ Even if this larger number were the more accurate figure, it still represents only half the number who originally turned out to suggest he run for the position.

Was this significant drop in numbers due to voter apathy? To a certain extent, this is an inevitable conclusion, 500 to 250 represents a fifty percent drop in interest in the election of the Superintendent. However, this election must be considered in relation to the fact that no one opposed Featherston's candidacy. Therefore, he would be elected no matter how many individuals turned up from the five districts in the Province of Wellington to vote for him. It is likely that many were influenced in their decision not to vote by the distance and time needed to come into town to vote for a man who would win whether they participated or not. The question remains, was voter apathy a distinctive element in the elections, of no less importance, of members from the five districts to the Council?

The election for the seven members of the Provincial Council to be drawn from the City of Wellington electorate was held at midday, on a 'dull cold and gloomy' Monday at James Smith's Auction room on Plimmer's Wharf.⁸⁰ On a show of hands, the *Independent* reported that a number of candidates seemed to have garnered a similar number of votes.⁸¹ Henry St Hill, the Registrar of Electors, determined in favour of Dorset, Clifford, Masters Moore, King, Hart and May. With this result, Fitzherbert called for a poll to be taken the following day, which gained a quite different result, in favour of Clifford with 281 votes, Dorset with 272, Fitzherbert with 255, Moore with 253, Wallace with 236, Lyon with 203 and Bethune with 195.⁸² Thus six of the seven former Settler's

⁷⁸ *The New Zealand Spectator and Cook's Strait Guardian*, Wednesday, July 6, 1853, p. 3.

⁷⁹ *Wellington Independent*, Wednesday, July 9, 1853, p. 3.

⁸⁰ *Wellington Independent*, Wednesday, August 10, 1853, p. 2.

⁸¹ These were, Dorset, Clifford, Wallace, Moore, Hart, King, Bethune, May, Masters, and Lyon. *The Wellington Independent*, Wednesday, August 10, 1853, p. 3.

⁸² *The Wellington Independent*, Wednesday, August 10, 1853, p. 3. *The New Zealand Spectator and Cook's Strait Guardian*, Wednesday, August 10, 1853, p. 2. The rest of the candidates polled

Constitutional Association members who ran were elected to the Provincial Council of Wellington along side former government nominee George Moore. Both papers report a similar number as the estimated voter turnout, the *Independent* quoting 420 polling electors, and the *Spectator* quoting 430.⁸³ Was this a significant turn out?

There are two significant factors to consider. Firstly the instructions that defined the way the election would take place declared that the franchise would be based on property. An elector had to be a European male over twenty-one years of age and hold one of three types of property.⁸⁴ In theory this meant that an eligible elector could vote under any of these categories for property owned in any district in the colony. As Atkinson noted, “this was ‘no one man, one vote’ system....freeholders and leaseholders could register and vote in every district in which they qualified, a practice known as plural voting”⁸⁵ In practice, this also meant that voters could give each of the votes allocated to him to a single candidate.⁸⁶ Voters could cast as many votes as there were to be representatives from the district they was voting in. Therefore, in the City of Wellington Electoral district, a voter could cast a maximum of seven votes. Secondly, according to the Wellington City electoral rolls, the majority of those who registered did so under the Household qualification, which was the easiest criterion to fulfil. There was also a great breadth of social standing, with Auctioneers, Storekeepers, Merchants and Gentlemen mixing with Bricklayers, Butchers, Bakers and Boot makers.⁸⁷ This, at least, could be considered to be a reasonable cross-section of Wellington’s European society in 1853. Any

in the following order: Kelham, 188, May, 180, Hart, 179 in the *Spectator* and 171 in the *Independent*, Masters, 154, King, 145, Fawcett, 29, Rhodes, 48, Carpenter, 33, Bradey, 5 in the *Spectator* and 16 in the *Independent*.

⁸³ *The Wellington Independent*, Wednesday, August 10, 1853, p. 3. *The New Zealand Spectator and Cook’s Strait Guardian*, Wednesday, August 10, 1853, p. 2.

⁸⁴ Either Freehold estate in the Province of £50 value, leasehold estate of £10 annual value or be a householder in town of a £10 value or out of town of £5 value. These included various conditions on length of residence. ‘Further Papers Relative to the Affairs of New Zealand’, *BPP*, Vol. 9 1852 – 1853, pp. 209 – 210.

⁸⁵ Neill Atkinson, *Adventures in Democracy: A History of the Vote in New Zealand*, University of Otago Press: Dunedin, 2003, p. 27. He further noted that plural voters could only vote once in each electorate despite the number of properties he held in each one.

⁸⁶ Atkinson, p. 27. Allocation of numbers of votes was set by the proclamation of the 1852 Constitution, “Every elector for the district may vote for any number of persons not exceeding the number of persons then to be chosen.” ‘Further Papers Relative to the Affairs of New Zealand’ *BPP* Vol. 9, 1852 – 1853, p. 214.

⁸⁷ Wellington Electoral Roll, 1853 – 1854, *New Zealand Gazette*, Vol. 1, No. 14, 16 July 1853, pp. 87 – 106. See also, Atkinson, p. 35.

statistical analysis of election figures done in order to assess the level of popular involvement in the election firstly needs a figure for the number of properties held in the districts, inhabited for six months or more, by men over twenty-one years of age, compared with the number of registered electors, compared with the estimated voter turnout for each of the five districts. Unfortunately there are no figures for property, and there are no explicit population figures for males over 21 in 1853.⁸⁸ This makes an assessment of popular involvement in the Wellington elections extremely difficult, but not impossible.

The easiest figures to determine are for the percentage of registered electors who participated in the Wellington Elections by casting votes.⁸⁹ Of a total roll of 1157 for the province, 534 men were registered as electors for the City of Wellington. At this election, a total of 2656 votes were cast for the sixteen candidates. The newspapers reported an estimated voter turn out of 420 or 430, which equates to a 78.65 – 80.52% turnout. If this estimate is taken as a true figure, when the number of votes cast is factored in, it would mean that each elector could only have cast an average of 6 votes. However, it seems unlikely that all of those who participated in the election would have consciously decided to make one less vote than allowable, especially when they theoretically could have cast all their votes for a single favourite if they so wished. Therefore, this figure can only represent the maximum possible turnout for the City of Wellington elections. If the number of votes cast was divided by the maximum number of votes an individual could cast, which was seven, the figure of 379.42 is produced, representing the minimum number of voters who turned out to vote in these elections, producing a figure of 71.05%. Therefore, an accurate percentage for the number of registered electors who took part in the City of Wellington election for members of the Provincial Council, likely stood somewhere within the 70% bracket.

Results for the other four electorates in the Wellington province tell a similar story. The Hutt district was the second largest electorate of the province,

⁸⁸ A fact confirmed by Atkinson, who has done extensive research on the history of New Zealand's electoral system for his book, *Adventures in Democracy*, footnote 62, pp. 270 – 271.

⁸⁹ The Provincial Council election for the Wairarapa and Hawke's Bay District cannot be assessed in the same manner, as its representatives Gollund and Revans were both elected unopposed, hence no poll was necessary. Also, members to represent Wellington in the House of Representatives were elected unopposed in all but the election for the Wellington Country Districts.

accounting for 23.5% of the total roll. There was no estimated voter turnout, but the number of votes cast on polling day was 791. The maximum number of votes that could be cast at this election was 4, and so the minimum number of voters who could have participated in this election for Provincial Council members was 197.75, or 72.43% of the registered electors of that district. The Wellington Country district was the third largest electorate, accounting for 17.1 % of the total electoral roll of the province. Again, there was no estimated turnout for this districts Provincial Council election recorded in either newspaper, but the total number of votes cast after the poll was called for was 358. The maximum number of votes possible was 3, and so the minimum possible voter turnout for this district was 129.3 voters, or 64.97% of the districts roll. The fourth district, Wanganui and Rangitikei accounted for only 8.9% of the total Wellington electoral roll and unfortunately, no figures are discernable from the report on the election result printed in the *Spectator*.⁹⁰

The final electorate accounted for only 3.9% of the total roll, and had only 46 registered electors, and its two members were elected unopposed. Atkinson noted, that only six enrolled men attended the election in southern Wairarapa, “electors from the far north of the district, who faced a journey of some 200 miles to attend, were effectively disenfranchised. Three years later the Wellington returning officer rode all the way to Castlepoint to elect a member of the Provincial Council for the same district, only to find no electors and no candidates.”⁹¹ This was a particularly poor turnout for the electorate that covered the largest area of the Province, and can be accounted for by the extreme difficulty of fast and effective communication and travel to and from the district. This is the second significant factor to take into consideration. Many electors may have been put off by a combination of factors including the distance needed to travel to an available polling booth, the fact that many of these elections were held on working days and not weekends, and the fact that many of these elections were forced into polls the following day, meaning another days worth of travel for some, or an overnight stay at the polling place for others.

The next step is the most difficult. As previously stated, there are no figures for property ownership, or even of age distribution for 1853. However,

⁹⁰ *The New Zealand Spectator and Cook's Strait Guardian*, Wednesday, September 7 1853, p. 3

⁹¹ Atkinson, p. 38.

there are age distribution figures for alternating years, and a pattern is observable between men under the age of qualification of 21, and those above it, which is shown on Plate One on the following page. For example, in 1843, the total male population of the Wellington area was 2094. There were 1075 European males under the age of 21, and 1019 males over the age of 21. These figures produced percentages of 51.3% and 48.6%. The difference between these age groups was only 5.2%, meaning they were virtually split in half. 1848 provided similar figures, with a total European male population in the Wellington province of 2658, and age distribution figures of 1360 for the under 21's and 1298 for those over 21. The percentages produced were 51.1% and 48.8%. Over a twenty-year period, these figures largely remain within 5% of each other.⁹²

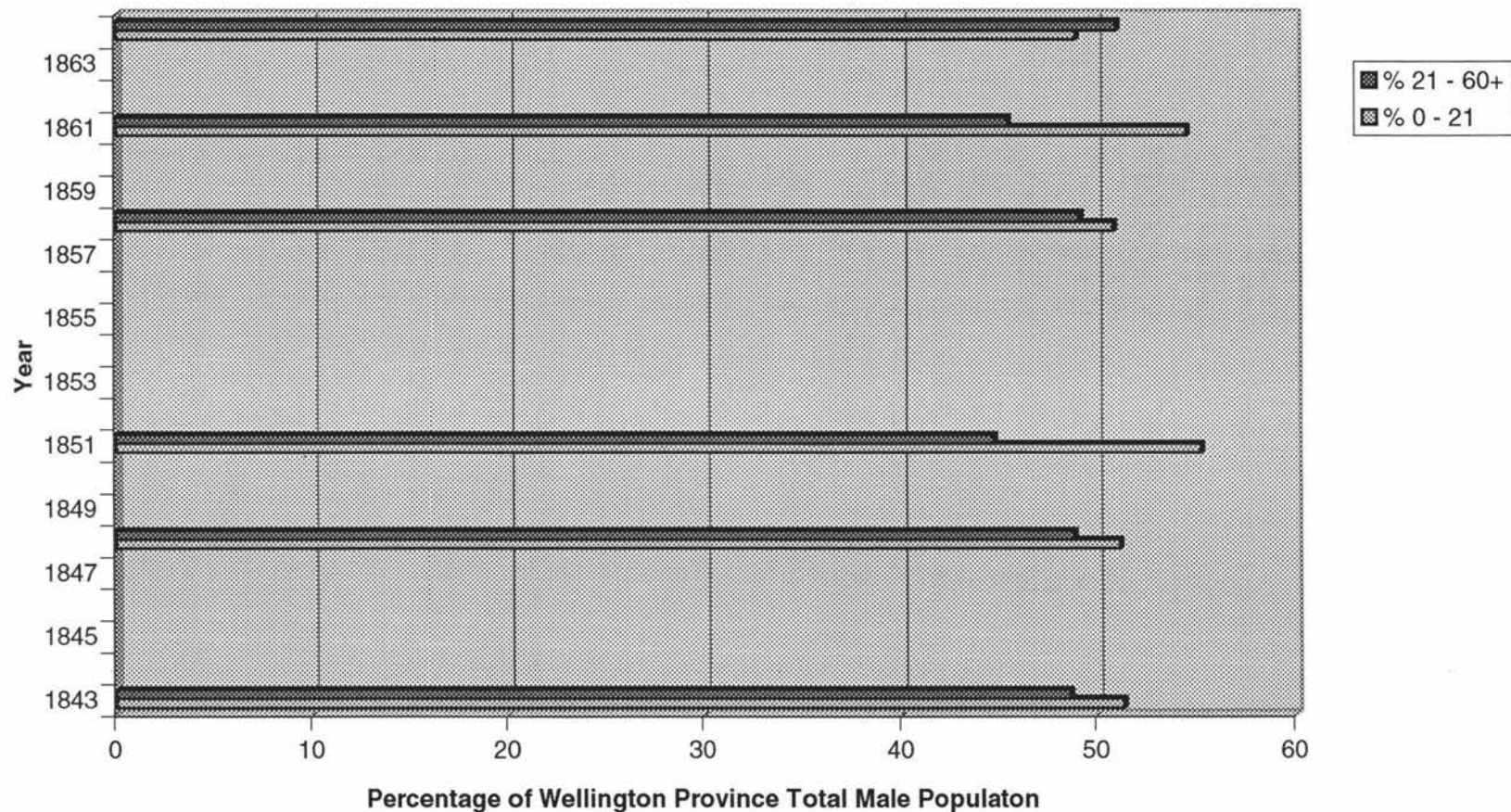
Although these figures representing population growth in the Wellington area are spread through alternate years, a pattern does seem evident, of roughly 51% under-age males to 49% of age to vote. The 1851 figures divided at 25, not 21, but if they had, the data produced would have been on par with the previous two sets of figures.⁹³ If this pattern were applied to 1853, just two years after the 1851 Age Distribution figures were recorded an estimate can be floated for the possible number of males in Wellington of and over the age of 21. Using this model, the theoretical number of European males over the age of 21 was 1622 in 1853, 2206 in 1854 and 2832 in 1855. When these numbers are then compared with the electoral rolls for those years, an estimate can be produced for the percentage of men, eligible by age who had registered to vote:

1853	1854	1855
21+ Males: 1622	21+ Males: 2206	21+ Males: 2832
71.3% Franchised	54.3% Franchised	65.6% Franchised
28.7% not franchised or un-enrolled	45.7% not franchised or un-enrolled	34.4% not franchised or un-enrolled

⁹² Excluding 1851, where the age division is at 25, not 21. This produces a percentage difference of 19%. Also 1861 has a much larger number of under 21's, producing a percentage difference of 14%.

⁹³ The year of 1851 also produced similar numbers, but the age distribution data was split at 25 years of age instead of 21. Therefore, the numbers in the graph are slightly skewed. The total European male population in the Wellington province in this year was 3613. Males under 25 numbered 1997. Males over 25 numbered 1616, producing percentages of 55.2% and 44.7%.

Age Distribution of European Males in the Wellington Province, 1843 - 1864



	1843	1844	1845	1846	1847	1848	1849	1850	1851	1852	1853	1854	1855	1856	1857	1858	1859	1860	1861	1862	1863	1864
■ % 21 - 60+	48.6					48.8			44.7							49.1			45.4			51
▨ % 0 - 21	51.3					51.1			55.2							50.8			54.5			48.9

The considerable drop in the franchise in 1854 and 1855 was due in large part to the distinctive rise in male population in the region in these years, from 3311, to 4504, to 5781. Therefore, a reasonable criticism could be made of assuming the pattern of age distribution held during these years.⁹⁴ Another criticism of these figures could be levelled at the lack of data on the percentage of plural voters within the electoral rolls.⁹⁵ However, this is just another of the 'unknowables' about this period of Wellington's history. These figures are not meant to be definitive, only to act as a guide for an assessment of the popular involvement of Wellington's community in their first free election.

Overall, the statistics tend to support a popular involvement, an involvement by a wide cross-section of European males from the Wellington region, in these elections. It is possible that only 29% of males over 21 were disenfranchised by the property qualification or were too apathetic about the whole process that they chose not to participate. Of those who were registered as electors, only 29% were persuaded not to take part for whatever reason, be that apathy or inability to take part because of the time and inconvenience involved to travel to voting places.⁹⁶ This example, along with the elections for the failed Municipal Councils in 1842 show a high level of involvement from the general public, perhaps because through the medium of elections, the public had something other than un-empowered public meetings to become involved in.⁹⁷

An argument could be made that the general principle of accountability, and the need for representation articulated by the Constitutional Association did have support across a broad constituency. Perhaps then, there was no popular agitation but rather a popular endorsement of these popular policies and principles that was shown with the election of so many former Association members to the Provincial Council? The answer is both yes and no. Yes, there was a public endorsement of the principle of accountability and responsibility shown in the signing of the petition organised by the Association. However, of the former Association men who were elected to the council, two had openly

⁹⁴ Although population fluctuated between the age distribution table years also, it was not on such a large scale as in 1854 and 1855.

⁹⁵ Although Atkinson has estimated 10 – 20% of the total New Zealand electoral roll of 1853 was plural. Atkinson, pp. 270 – 271.

⁹⁶ See Atkinson, especially Wairarapa.

⁹⁷ This is all the more significant when compared to low turnouts for the 2004 local body elections which are open to both men and women, and limited only by age and citizenship status.

denounced the idea of pledging to resign on a vote of no confidence and two had expressed 'no comment' opinions. The issue of former Association members seemingly doing an about turn on their responsibility ideologies did not hamper their election campaigns, and so the issue was unlikely to have been a primary motivator for election. The result of the election was due more to the element of fame than on any primary issue. Most elected members, particularly from the City of Wellington and Hutt districts were well known public figures who fell on either side of the Settlers Constitutional Association/Nominee and Pledge supporter/Pledge detractor divide.

Once again the two factions dominated the political environment in Wellington, where after the announcement of the 1852 Constitution, the principal issue was that of responsible government. The Settlers Constitutional Association members who stood for election seemingly lost the respect of some for their refusal to pledge responsibility, but were well rewarded for their activity in the community by being elected to positions in the new institutions they seemed almost to have been waiting for. There were two sets of differing understandings of responsibility that dominated the factional politics that included the possible need for an upper house as a check or solution to the possibility of 'mob' power if representation was to be established and the dichotomy between the concepts of ministerial responsibility and responsibility to electors. These problems continued into the Provincial Council and the General Assembly and so were not resolved by the election, meaning there was no immediate advancement in authoritative responsibility secured by the 1852 Constitution. In conclusion, there is little evidence to suggest that the 'public', or those not involved with the factional political divide in Wellington, were in any way involved in agitation for the inauguration of representative or responsible government in the colony between the period of the two constitutions. But they were certainly participants in these institutions via the means of involvement in the elections with high turnouts despite many obstacles to that fact being present.

EPILOGUE / CONCLUSION

To What Extent Was There a Popular Involvement in Agitation for Representative and Responsible Government in the Wellington Province?

1854 - 1856

The consequences of the differing understandings of responsibility in government were widespread and ingrained in the early years of representative governance in New Zealand, at both the central level, and the provincial level in Wellington. When the first session of the Provincial Council of Wellington was called, Governor Grey had left the colony without calling the General Assembly together in Auckland. When this finally occurred in 1854, there was no word when a permanent Governor would arrive. Instead, former Lieutenant Governor of New Ulster, R.H. Wynyard was given the post of ‘Officer Adminstrating the Government’ and acted in the place of the absent Governor. At both levels of Government, the responsibility issue was a central one. At the Wellington Provincial Council, Superintendent Featherston stated, “Holding, as I do, the opinion that no representative Legislature can ever work satisfactorily with an irresponsible executive...I at once declare my intention to carry on the administration of the Government of this province, as far as practicable, by means of a responsible executive.”¹ The Constitution had given the Superintendent the power to make and ordain all local laws, with only a few exceptions reserved to the Governor. What it did not do was accurately describe from where he was to derive this power, an issue all the more pertinent in an environment that lacked a central legislature.²

¹ “Council Paper, Speech of His Honor the Superintendent of Wellington, Delivered at the opening of the Provincial Council October 28th 1853”, *Wellington Provincial Council Acts and Proceedings Session 1, 1853 – 1854*.

² Clause XVIII stated, “It shall be lawful for the Superintendent of each Province, with the Advice and Consent of the Provincial Council thereof, to make and ordain all such laws and ordinances (except and subject as hereinafter mentioned) as may be required for the Peace, Order and good Government of such Province, provided that the same be not repugnant to the law of England.” A.H. McLintock, *Crown Colony Government in New Zealand*, R.E. Owen, Government Printer: Wellington, 1958, p. 420. In January 1854, the Council passed the ‘Empowering Bill’, which effectively gave the Superintendent all the powers previously assigned to the late position of Lieutenant – Governor of New Munster. “Empowering” Session 1, No. 4, 9 January 1853, *Wellington Provincial Council Acts and Proceedings Session 1, 1853 – 1854*.

Once called together by Wynyard, the General Assembly faced similar problems over a lack of communication and understanding over what role executive government was to play in the colony's new representative system of governance. The 1852 Constitution had made no provision for the old executive council, although in September 1852, Wynyard received an additional set of Royal Instructions that told him that as Governor, he should consult with the old executive council, consisting of the top four officials in the colony. These were the Senior Military Officer, (which at the time was a position held by Wynyard himself), the Attorney General, the Colonial Secretary and the Colonial Treasurer.³ Wynyard was also given the power to add others to the executive council as he saw fit. This caused some controversy in the General Assembly as Wynyard had total sway over this executive power via his right to summon and prorogue it at will and via the fact he was not bound by any law to take its advice. No provision had been made for the relationship between the Executive Council and the General Assembly. This was significant for the main reason that the Assembly had control over the supply of funds to the executive. Henry Sewell, who was an MP, noted "Parliament's control over the executive depended on its control over public expenditure."⁴ Therefore, it was essential for the good government of the colony to ensure proper co-operation and communication between these two bodies.

Two separate attempts were made to ensure this co-operation and each failed to secure it. These attempts occurred while the General Assembly and Wynyard waited for word from England on whether or not Wynyard had sufficient power as a temporary officer to declare responsible government. In principle this was an attempt to put into practical effect the 'option B' theory of responsible government, whereby the Governor would create an upper house using members put forward via a confidence vote by the lower house. However, the attempt failed. A principal controversy centred on the issue of securing pensions for the serving executive officers of the Crown Colony Government.

³ J.O. Wilson, *New Zealand Parliamentary Record 1840 – 1984*, V.R. Ward, Government Printer: Wellington, 1985, p. 52. See also J.A. Ward, 'The Interposing Barrier: Perceptions and Expectations of the British Army in New Plymouth in 1855', BA (Hons) Research Exercise, Massey University: Palmerston North, 2002, p. 33.

⁴ W. David McIntyre (ed.), *The Journal of Henry Sewell 1853 – 7: Vol. 1 February 1853 – May 1854*, Whitcoulls Publishers: Christchurch, 1980, p. 74.

They would not resign their permanent positions in order to make way for responsible ministers from the General Assembly until such reward was secured for them, and the Assembly was equally stubborn in refusing to secure those pensions at the expense of the colony rather than at the expense of the 'home' government.

Two temporary and unofficial ministries were attempted until word was received from England, in order to "ensure communication between the Executive and the Assembly...[to]...allow government bills to be introduced and passed it was proposed that two or three members of the General Assembly should be appointed to the Executive Council as unofficial members. The three permanent officials would however continue in office and conduct their ordinary business."⁵ The first unofficial Ministry began on 14 June 1854 and was led by Member of the House of Representatives (MHR) James Edward Fitzgerald, member for Lyttelton, and included MHR Henry Sewell, member for the Town of Christchurch, MHR Frederick Aloysius Weld, member for the Wairau district, and Member of the Legislative Council (MLC) Francis Dillon Bell, former Nominee of the New Munster Council who replaced MLC Thomas H. Bartley of Auckland. Wilson notes, "it soon became clear that "the unofficials" were being expected to propose and support in the House policies over which they did not have much control. Nor did it seem there was any possibility of an early change for the Administrator believed that the temporary arrangement must continue until Colonial office approval was obtained for any legislation needed."⁶ The Ministry ended with the resignation of the unofficial members two months later, and a two-week prorogation of the Assembly.

On the resumption of the session, the second unofficial Ministry was attempted under the leadership of MHR Frederick Forsaith, member for the Northern Division. Beginning on 31 August 1854, his Ministry included MHR Edward Jertingham Wakefield, member for the Hutt district, MHR William T. L. Travers, member for the Town of Nelson, and MHR James McAndrew, member for the Town of Dunedin, but the same problems existed. The 'unofficials' had no power in the Executive Council and resigned after only three days. After this, supply was voted and the members gratefully returned to their

⁵ Wilson, p. 52.

⁶ Wilson, p. 52.

home districts after a long, frustrating and fruitless session. The General Assembly met only once more, in May 1855, before responsible government was officially granted for the third session, held in May 1856. However, the theoretical establishment of 'responsible' government was not the panacea for the problems encountered in the early assemblages of the General Assembly, as three separate ministries were formed in 1856 alone, although the final of these managed to create a stable government from 1856 to 1861. Only the first three ministries, including the two unofficial ministries of Fitzgerald and Forsaith included any members from the Wellington province in the early years of representative government in New Zealand.

While the Wellington members achieved little immediate national prominence in the early years of representative government in the colony, the involvement of so many of the personalities from the factional divide, including ex-nominee's and Association members, mark them out as 'politicians-in-waiting'. Therefore, in summation: as discussed in the introduction to this thesis, the key to finding an answer to the thesis' principal, focussing question, lay in making an assessment of the motivating factors behind the desire to agitate for representative and responsible institutions, from the perspective of the European settlers of Wellington. If this motivation could be illuminated, a picture of whether or not the 'agitators' were themselves representative of the wider community could be discerned and an assessment of the extent to which the general public in Wellington were involved in agitation for free political institutions could be made.

Several perceptions and ideas were prevalent in Wellington's media at the time, which were prime motivators for individuals to take up the cause of agitation for improved governmental machinery through the principals of representation and authoritative responsibility. There are five related key words that contribute to an understanding of these motivations. Perceptions were formed by some individuals that the available authorities in the colony were acting *irresponsibly* towards the European inhabitants of the province, often via an uninformed *interference* in local matters. There was a desire for the non-

representative authorities to be made *accountable* to the colonists, and for the colonists to have an input into the formation of those authorities by being able to express *confidence* in one way or another in the individual officers. For many, this was a basis upon which full *self-government* would become a reality.

Early sections of this thesis discussed the problem of 'who' in Wellington was affected both by the motivating factors towards agitation and the agitation itself. The third section of chapter two analysed the self-proclaimed class divisions in the province: Elite or propertied class, Merchant or Business class and the lower, or 'working' class. If agitation were going to be popular, those who agitated would have to prescribe to each these three self-imposed labels. However, these labels were shown to be nothing more than rhetoric based on traditional concepts of social division in England, but which were not so relevant in the new colony. For example, there were those who championed working class representation in the elections for the borough council in 1842, who more correctly belonged in the 'middle' business class, and which had very few actual 'working men' involved.

Subsequent chapters showed that despite the political rifts in the province, there was only one organised body of agitation that sought representation and responsibility: the Settlers Constitutional Association. However, this body was almost composed of a single class, behaving as representatives of the entire Wellington community via the fact that there was very little organised opposition to them rather than there being a wide cross-section of class involvement in their agitation. Instead, there were a large number of individuals who, whether knowingly or not, consented to their action by either making no comment, or by signing the Association's petition calling for representation and responsibility. In fact, it is very difficult to gauge the level of involvement of the wider public. There were often large numbers willing to sign vaguely worded petitions, but very few individuals who had the time to donate to active agitation. There was perhaps a kind of consent to the general principles of responsible government propounded by the Association, rather than an active involvement in their deeds. However, the 'public' are perceivably involved when there is an opportunity for participating in a direct and official action, such as the elections, which took place once representation was granted in 1853.

The perception of authoritative failures that are the primary motivator for the desire for representation and responsibility centres on business principles and the security of money and land – not on desire for the implementation of ideals for ideal's sake, although this rhetoric is often used. Agitation was the preserve of men who had the leisure to become involved, and of factions that were not widespread in the community, especially the Settlers Constitutional Association, which was comprised primarily of business elites. Admittedly, some individual elements of this thesis have been paid attention before, like the 1842 Borough elections, and particularly, the 1846 and 1852 Constitution's. However, these things are enriched by a more in-depth analysis that includes relatively unexplored elements such as the pledge debate surrounding the 1853 elections in Wellington, and also by the overall theme of this thesis: namely, looking at perceptions and expectations proliferated particularly through newspapers about governmental development from a single localised area – that of Wellington.

Therefore, in conclusion, there was a relatively limited extent of popular involvement in agitation for representative and responsible government in the Wellington province, as the 'public' are only really perceivable through their participation in elections. In 1853 there were large to mediocre turnouts in the five electoral districts of Wellington, for the election of members to the Provincial Council, showing a greater degree of popular involvement in politics once representation was granted and there was a satisfactory avenue for the 'people' to express their political opinions. Agitation for representation and responsibility was instead largely confined to 'men of means' from a single self-defined class group of business associates, who were 'politicians-in-waiting'.

APPENDIX A

The New Zealand Company's 'Provisional Constitution'

We, the undersigned, intending to inhabit the New Zealand Land Company's first and principal settlement, with the view to provide for the peace and order thereof, do hereby agree among ourselves and pledge our honour to submit ourselves to the following provisional regulations and to enforce them on each other: that is to say, -

1st. That all the persons, parties to this agreement, shall submit themselves to be mustered and drilled under the direction of persons to be appointed as hereinafter mentioned.

2nd. That in case any of the persons, parties to this agreement, shall commit any offence against the law of England, he shall be liable to be punished in the same manner as if the offence had been committed in England.

3rd. That in case any dispute shall arise between any of the persons, parties to this agreement, such disputes shall be decided in the manner hereinafter mentioned.

4th. That a committee shall be formed of the following persons: Colonel William Wakefield, the Company's principal agent.

Dr George Samuel Evans, Barrister-at-Law

Hon. Henry William Petre

Dudley Sinclair

Francis Alexander Molesworth

Capt. Edward Daniell

Lieut. William Mein Smith, the Company's Surveyor General

Richard Davies Hanson

Edward Betts Hopper

George Duppa

Henry Moreing

Henry St. Hill

Thomas Mitchell Partridge

Major David Starke Durie

That Col. Wm. Wakefield shall be the first President thereof. That in all cases the Company's Principal Agent shall be the President. That the Company shall have power to appoint five additional members. That the Committee shall have the power to appoint five additional members. That the number of members shall not exceed twenty-five. That five members shall be a quorum for all purposes. That Samuel Revans Esq. shall be the first Secretary to the Committee.

5th. That the Committee shall have the power to make rules for their meetings, and to appoint the necessary officers, and that a meeting of the Committee shall take place within three days after five members shall have arrived in the settlement.

6th. That the Committee shall have the power to appoint a person who shall be called an umpire; and that George Samuel Evans Esq., Barrister-at-Law shall be the first umpire. That the umpire shall preside in all criminal proceedings, and assisted by seven assessors shall decide on the guilt of innocence of the party accused.

7th. That if the party be declared guilty the Umpire shall state the punishment to be inflicted; provided that without the special approval of the Committee no imprisonment to be stated by the Umpire shall exceed three months, and no fine to be so stated shall exceed 10.

8th. That in all civil proceedings the Umpire shall preside; that each party may choose an arbitrator who shall sit with the Umpire, and the award of the majority shall bind the parties; and the umpire shall have all necessary powers of compelling the attendance of witnesses and the production of books and papers, and of examining the witnesses.

9th. That the Committee shall have the power to appoint five of their members, who shall be called a Committee of Appeal, and to such Committee an appeal may be made in all cases civil and criminal, and the decision of such Committee shall be final.

10th. That the Committee and the Umpire shall be authorised to make such rules and orders for their government in the execution of their duties as they shall think fit.

11th. That the Committee may direct in what manner the assessors shall be chosen.

12th. That the Committee shall direct the calling out of the armed inhabitants, and shall make rules and regulations for the government of the same.

13th. That the Company's principal agent shall have the highest authority in directing the armed inhabitants when called out; and that the Committee shall have the power to appoint such other persons as they think fit to assist in such direction.

14th. That the Committee shall have power to make regulations for preserving the peace of the settlement; and shall have power to levy such rates and duties as they shall think necessary to defray all expenses attending the management of the affairs of the colony and the administration of justice.

In witness whereof, we have hereunto set our hands this fourteenth day of September, one thousand eight hundred and thirty nine.¹

¹ From Carman, p. 2 – 3, and *The New Zealand Gazette*, Saturday, April 18, 1840, pp. 2 - 3.

Anti – Company Satire

‘The Wellington Creed’

By ‘Peter Simple’

I believe in the New Zealand Company.
I believe they have taken our money for land.
I believe that most of us have waited three years for the land,
And have not yet got it.
I believe we shall not get it for three years longer.
I believe we have been bamboozled.

New Zealand Colonist and Port Nicholson Advertiser,
Tuesday April 18, 1843, p. 2

Pro – Company Satire

**In support of the New Zealand Company’s Principal Agent,
Colonel William Wakefield (Wideawake)**

[From a Correspondent]

Oh yes! ‘twas a glorious meeting!
A most satisfactory meeting –
What pains did they take,
To meddle and make,
And tire out the patience of WIDEAWAKE!

How chopfallen now is their greeting, -
“Alas! For our beautiful meeting!
But wait – by and by
Again we will try
At another attack upon WIDEAWAKE!”

Oh yes! Let them get up a meeting,
Another such beautiful meeting!
Again they shall quail
Who attempt to assail
The word or the honour of WIDEAWAKE.

New Zealand Gazette and Wellington Spectator, Saturday April 25, 1842, p. 3.

St. Hills Ticket

Advertised in the *Colonist*, Tuesday 3 September, 1842, p. 1.

The Committee for securing the election of the following gentlemen as Members of the Council for this borough sit every Thursday evening between the hours of seven and nine o'clock at the 'Ship Hotel', Manners Street.

Henry St. Hill
Chairman of the Committee

Messrs Bethune	Lyon
Daniell	McDonald
Durie	Molesworth
Fitzherbert	Partridge
Guyton	Penny
Hort, Abraham	Smith, W. M.
Hunter	Waitt
Johnson, E.	Wallace, H.
Ludlum	Watt

The Workingmen's Ticket

Advertised in the *Colonist*, Friday, September 9, 1842, p. 3.

The Committee appointed at a late Public Meeting, for the purpose of forwarding the Election of those Gentlemen who have been generally approved of by the community at large, beg to caution all parties from being misled by those self-elected individuals, who so modestly advertised themselves in the *Colonist* of last Friday. The following Gentlemen only have been recognised by the public as the most fit and proper to form our first Town Council: -

Messrs Hunter	Messrs Machattie
Wade	Molesworth
Revans	Dorset
Waitt	Lyon
Cooper	E. Johnson
H. Taylor	Hanson
A. Hort	W. Smith
Catchpool	Wallace
Fitzherbert	R. Davis

The Committee meet at the Thistle Inn, every Monday, and at the New Zealander, on Thursday evenings, at eight o'clock.

John Sutton
Chairman of Committee

Results of the Wellington Municipal Council Election 1842

Advertised in the *Colonist*, Friday, 7 October, 1842, p.3.

BOROUGH OF WELLINGTON

AS RETURNING OFFICER of this Borough for the first Election, I did, in pursuance of the Ordinance of Council, 3 Vict., N. IV., proceed on Monday, the 3rd day of October instant, to the election of eighteen persons being Burgesses, and I do hereby declare and publish the following as the list of persons elected, arranged by me according to the provisions of the said Ordinance, viz, -

Hunter, George, Willis Street, merchant.....	273
Lyon, William, Lambton Quay.....	237
Fitzherbert, Wm. Farish Street, merchant.....	220
Wade, John, Te Aro, auctioneer.....	212
Scott, George, Willis Street, carpenter.....	196
Molesworth, Francis Alexander, River Hutt, Farmer.....	182
Dorset, John, Lambton Quay, surgeon.....	176
Waitt, Robert, Te Aro, merchant.....	164
Guyton, William, Te Aro, merchant.....	155
Hort, Abraham, Te Aro, merchant.....	155
Johnson, Edward, Lambton Quay, merchant.....	151
Jenkins, Robert, Manners Street, publican.....	149
Wallace, John Howard, Lambton Quay, merchant.....	144
Hanson, Richard Davis, Wellington, Solicitor.....	126
Cooper, William Anthony, Te Aro, carpenter.....	125
Daniell, Edward, Te Aro, gentleman.....	124
Machattie, Thomas Milne, Lambton Quay, merchant.....	122
Taylor, Henry, Willis Street, storekeeper.....	117

I have also determined, by lot, that William Guyton's name shall stand upon the list before the name of Abraham Hort, both these burgesses having an equal number of votes.

And I further hereby declare the above named George Hunter, William Lyon, William Fitzherbert, John Wade, George Scott, Francis Alexander Molesworth, John Dorset, Robert Waitt, William Guyton, Abraham Hort, Edward Johnson, and Robert Jenkins, being the twelve burgesses whose names stand highest upon the said list, to be the Aldermen of the said Borough of Wellington.

And I do hereby further declare that the names of the aforesaid John Howard Wallace, Richard Davis Hanson, William Anthony Cooper, Edward Daniell, Thomas Milne Machattie, and Henry Taylor, whose names stand next highest upon the said list, shall form the Reserved List, out of which all extraordinary vacancies in the Council, until the next General Election thereof shall be supplied.

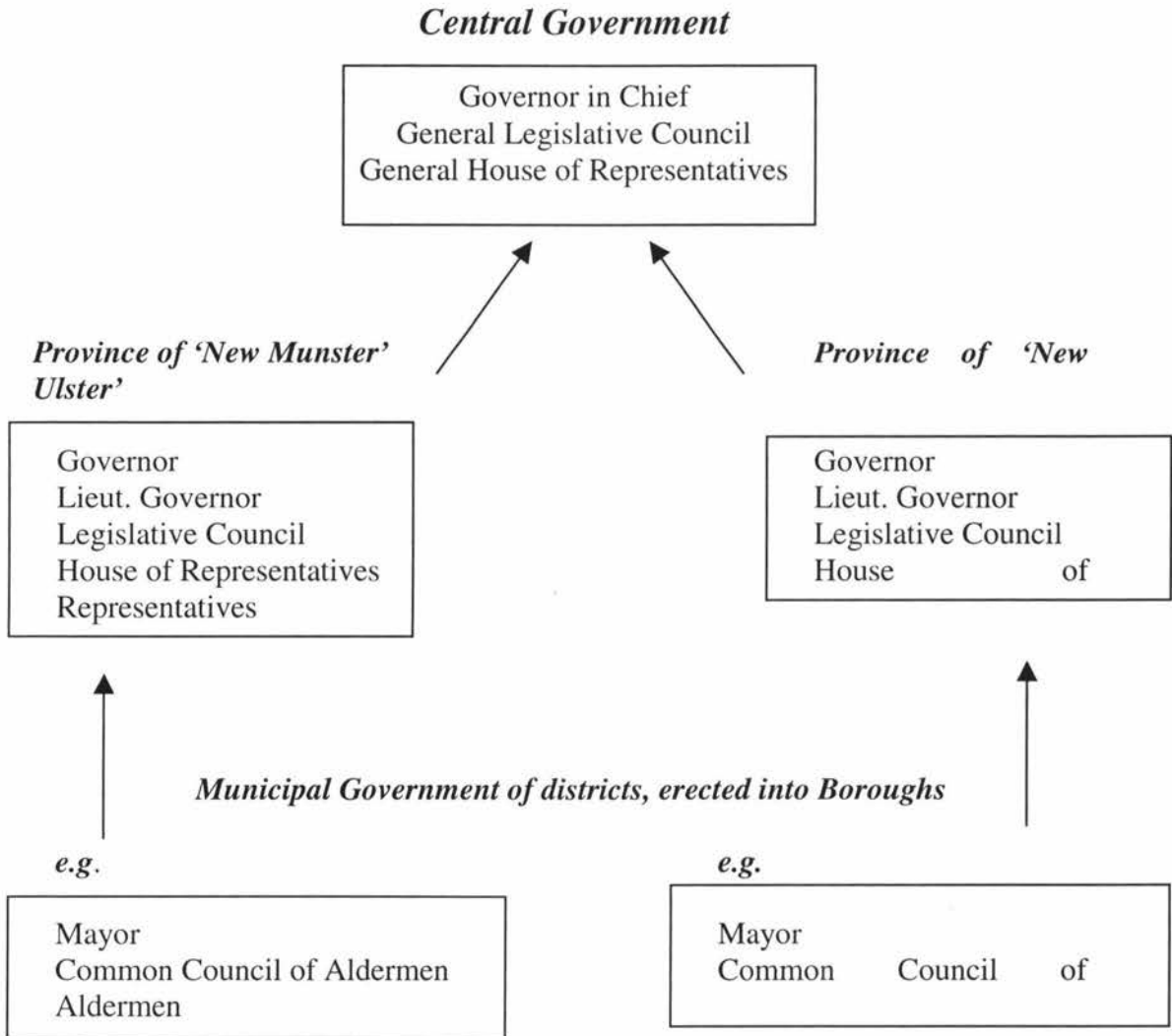
And, lastly, I do hereby publish and declare that the above-named George Hunter received the highest number of votes.

MICHAEL MURPHY
Returning Officer

October 7, 1842.

APPENDIX B

Structure of Government Under the 1846 Constitution



The Municipal Governments of each borough were to be elected by the residents of each borough

Each Borough Council was to elect members to the Provincial House of Representatives

The Provincial Legislative Councils were to consist of members chosen by 'Her Majesty', meaning they would be chosen by her representative, Governor Grey and his successors.

Members of the General Legislative Council could only be sourced from the Provincial Legislative Councils, and members of the General House of Representatives could only be sourced from the Provincial House of Representatives.

The five governorships were to be restricted to two persons only for the time being.

APPENDIX C

Satire from
The Wellington Independent
23 December 1848

Asmodeus like I've been to see,
The exhibition of NOMINEES!
Where some appeared with shadowy brows,
And a wish to look wise – *yet knew not how!*

Oh, it's not in the tongue or pen to trace,
The scenes that passed in that regal place;
Self-glory glistens o'er all that's there,
And the shrubs and flowers wear a jaunty air.

The Great Mogul arose and then
Addressed his wooden Automatons;
"You'll all rejoice to hear I'm sure,
"Your duties will be a sinecure!

"And those that dare deride or scorn you,
"Had better decamp to California;
"If the're so deficient of common sense,
"I'll teach them better a few months hence."

But the sport at which most time they spent,
Was a Puppet Show, called Parliament;
Performed by Wooden Cicero's,
As large as life, -who stood to prose.

While adroitly the Great Mogul and Eyre,
(Who owned the Puppets,) pulled the wire;
And delighted were they at the plan,
Of their *modern fantoccini divan*.

Thus all went on, so snug and nice,
In this Turkish Council Paradise;
But it was too plain, to see, alas!
That a change soon must come to pass.

For methinks I hear the birds sing louder,
The Settlers soon will be the stronger!
And like Banquo's Ghost, will fleet away,
The Wooden Councillors cringing away.

Satire from
The Wellington Independent
3 March 1849

A Song of Six

Sing a son of six (birds)
Going all awry;
Half a dozen *Black Birds*
Baked in a pie;
When the pie was opened,
The birds began to sing;
Tell us what to do, Sir,
“*We’ll do anything!*”

Nursery Ballad, adapted.

Oh how sweet it is to be
A Nominee and M. L. C.;
On scarlet cloth to sit in state,
And in dumb show to legislate
Oh, how sweet, &c.

In foremost rank stands spooney Lud,
Whose brains all say are made of mud;
Yet oh, ye Gods! The foolish elf,
A second *Alfred* thinks himself!
Oh, how sweet, &c.

There’s Nimrod, just escaped from
taw,
Now plays a game at making law;
Who silent nods, and looks quite wise,
And there alone his wisdom lies.
Oh, how sweet, &c.

Oh lovely Cupid, happy youth!
Who sets at nought regard for truth;
Who turned his coat, in hopes of pelf,
And to the G-----r sold himself.
Oh, how sweet, &c.

Next comes “Ban Ban, Caliban,
Get a new master, be a new man;”
And like the son of Sycorax
As easily impress’d as wax.
Oh, how sweet, &c.

Lo see the mighty statesman rise
To legislate on oyster pies;
Whose daring soul (the ambitious
sinner)
Ne’er soar’d beyond a civic dinner
Oh, how sweet, &c.

There’s one more thinks himself a wit
In Council thought he’d made a hit’
His sharpest wit, upon my life,
Cuts not so deep as his bone knife.
Oh, how sweet, &c.

Then let us hope this worthy lot,
Whose deeds will never be forgot;
May claim our warmest gratitude,
And *hang* together for our good.
Oh, how sweet, &c.

Satire from
The New Zealand Spectator and Cook's
Strait Guardian
8 February 1851

Rhymes for the Times No 1 (Abridged)

Who comes upon the stage,
In foaming, shrieking rage,
With his hounds at his tail,
Our rights to assail,
Lest the great Agitator's trade should fail?
Who rants upon the stage?

'Tis Compensating Fogs!
The Unjust Steward Fogs!
Who, with his hogs,
Would send us to the dogs,
While, his pay gone, off with the cash he jogs:
The jobbing, snobbing Fogs!

Who follows first the Fogs?
Who is the first of the Dogs
Who take his pay
In many a way,
And pray that his sway may endure always?
Who follows first the Fogs?

The Duellist FIDDLESTONE!
Place-hunting FIDDLESTONE!
Who missing the bone
He had marked for his own,
Growls at Sir George with sepulchral tone:
Unlucky FIDDLESTONE!
Who follows next the Fogs?
Who is the next of the Dogs?, &c.

It is the great COARSETTE!
From whom you'll nothink get,
But particularly fair
Misconduct in the Chair,
Where with horsewhip he'd silence those who dare
Hoppose the faction's pet.
Who follows next the Fogs?
Who is the next of the Dogs?, &c.

'Tis SNIFFORD! Statesman great!
Who, strong in debate,
Acts as if he knew
The saying true
About "madness of many for the gain of a few":
This mimic Statesman great!
Who follows next the Fogs?
Who is the next of the Dogs?, &c.

APPENDIX D

Names	Occupations	Organisations			1842	1842	1848	Later Positions		
		1840								
		PCCC	ASCAC	DPCAC	SHTBE	WCTBE	SCA	MPC	MHR	MLC
Baker, Major Richard	Winemaker		*							
Best, Lieut. A.D.	Army Officer		*							
Bethune, Kenneth	Merchant		*		*		*	*		
Brandon, Alfred de Bathe	Solicitor						*	*	*	*
Brewer, William V.	Barrister		*							
Clifford, Charles	Grazier						*	*	*	
Cooper						*				
Crawford, Jas C.	Landowner		*							
Daniell, Captain Edward	Landowner	*	*		*		*	*		
Davis, Rowland Robert Teape	Hotel Keeper, Labour reformer			*		*	*			
Dorset, Dr. John	Surgeon		*			*	*	*		
Dorset, William	Settler						*	*		
Duppa, George	Landowner	*	*							
Durie, Major David Stark	Storekeeper	*	*	*	*					
Earp, George B.	Merchant			*						
Evans, Dr. George Samuel		*								
Featherston, Dr. Isaac Earl	Doctor						*	*	*	
Fitzgerald, John P.	Surgeon		*							
Fitzherbert, William	Merchant, Winemerchant, J.P.				*	*	*	*	*	*
Fox, William	J.P., Doctor, Editor						*	*	*	
Guyton, William	Merchant				*					
Hanson, R.D.		*				*				
Hay, Captain	Merchant			*						
Hodges, Captain				*						
Hopper, Edward Betts		*								
Hort, Abraham	Merchant					*				
Hunter, George (Snr)	Merchant		*		*	*				
Johnson, Edward	Merchant				*					
Johnston, John	Merchant					*	*	*		*

Names	Occupations	Organisations				Later Positions				
		1840				1842	1842	1848		
		PCCC	ASCAC	DPCAC	SHTBE	WCTBE	SCA	MPC	MHR	MLC
Kelham, James	Merchant						*		*	
Ludlam, Alfred					*			*	*	
Lyon, William	Merchant/Storekeeper			*	*	*	*	*		
Machattie						*				
Mariott	Shopkeeper/Actor						*			
McBeth, John	Merchant						*			
McDonald					*					
McDonald, A.							*			
McKenzie, Thomas Wilmor	Founder of <i>Wellington Independent</i>						*			
Milne, Thomas						*				
Moering, Henry		*								
Molesworth, Francis Alex	Landowner, Farmer	*	*		*	*				
Murphy, Michael	Police Magistrate		*							
Partridge, Thomas Michael		*	*		*					
Penny					*					
Petre, Hon. Henry William	Landowner	*	*							
Revans, Samuel	Newspaper Proprietor					*	*	*	*	
Rhodes, Captain							*			
Rhodes, W. B.	Merchant			*			*	*	*	*
Ridgeway, Isaac	Merchant			*						
Schultze, Charles William	Merchant						*	*		
Sinclair, Dudley		*								
Smith, James	Innkeeper			*			*			
Smith, Lieut. William Mein		*			*	*				
St. Hill, Henry	Landowner	*	*		*					
Sutton, John	(Chairman of Committee)						*			
Taylor, Henry	Storekeeper						*			
Vincent, W.E.	Founder of <i>Wellington Independent</i>						*			
Wade, George				*						

Names	Occupations	Organisations				Later Positions				
		1840				1842	1842	1848		
		PCCC	ASCAC	DPCAC	SHTBE	WCTBE	SCA	MPC	MHR	MLC
Wade, John	Auctioneer			*		*	*			
Waitt, Robert	Merchant				*	*	*	*		
Wakefield, William	NZC Principal Agent	*	*							
Wallace, H	Merchant				*		*			
Wallace, John	Merchant			*		*				
Wallace, John Howard	Merchant					*	*	*		
Wallace, Robert							*			
Watt					*			*		
Weld, Frederick							*			
White, George	Farmer			*						
Woodward, Jonas	Book keeper			*						
Yates, Francis				*						
Alexander							*			
Allen, G.							*			
Allen, W.	(Butcher?)						*			
Ames							*			
Back/Buck, G.							*			
Baker, Major							*			
Blyth (e)							*			
Bould							*			
Bragg							*			
Brown, A.							*			
Brown, G.							*			
Buckle							*			
Carter, Charles Rooking	Carpenter						*	*	*	
Christian							*			
Crawford, G.							*			
Edwards	(School Master?)						*			

Names	Occupations	Organisations				Later Positions				
		1840				1842	1842	1848		
		PCCC	ASCAC	DPCAC	SHTBE	WCTBE	SCA	MPC	MHR	MLC
Fisher	(Painter?)						*			
Flyger	Merchant						*			
Godley							*			
Heese							*			
Joseph, I.							*			
Mantell							*			
McDonnell							*			
Muan/Munn							*			
Plimmer							*			
Quin (n)							*			
Roe							*			
Samuel	Merchant						*			
Taunton, W. E.							*			
Taylor, J. M.	Merchant						*			
Varnham, John	Merchant						*	*		
Wakefield, E. J.							*			
Wakefield, Edward Gibbon	Settler						*	*	*	
Wallace, John (snr)	Settler, Storekeeper						*	*		
Waters, G.	(Painter?)						*			
Wintringham							*			
Known Government Supporters										
Baker, Richard										
Bannatyne, William	Nominee									
Bell, Francis Dillon	Nominee									
Bradey										
Domett										
Duncan, R. J.	Merchant							*		

KEY

PCCC	Provisional Constitution's Council of Colonists
ASCAC	Aristocratic/Select Committee for Anniversary Day Celebrations
DPCAC	Democratic/People's Committee for Anniversary Day Celebrations
SHTBE	St Hill's Ticket for Borough Elections
WCTBE	Working Class Ticket for Borough Elections
SCA	Settlers Constitutional Association
MPC	Member of the Provincial Council
MHR	Member of the House of Representatives
MLC	Member of the Legislative Council

Wellington Provincial Council Candidates and Policies

Clifford: City of Wellington (Polled first) SCA Pledge detractor through Adv.

- Constitution clearly establishes the system of Responsible Government.
- All Chief Executive Officers must be filled by men enjoying the confidence of the Representatives.
- Strongly objects, as a general rule, to the practice of requiring a pledge.

Hart: City of Wellington (Polled ninth) GOVT Pledge supporter

- Gives one pledge only: That if elected he *will resign if those people make it known they wish it.*

J. Masters: City of Wellington (Polled tenth) ?

- "I pledge myself to give support to the opinions which you collectively approve and dictate, or resign if called upon to do so."

R. Waitt: Wellington Country Districts (Polled second) SCA

- "I dislike the system of giving pledges, yet when the opinion of the representatives on general subjects differs with those held by a majority of the electors it is then I consider the duty of the representative to resign his trust into the hands of his constituents."

F. Bradey: GOVT

- "I shall be at all times ready to receive advice from my constituents, and will vote on that side the majority dictate: and if I cannot carry out their wishes or measures, I will resign my seat and trust into their hands when fifty of them please to call upon me to do so."

Gibson: Wellington Country Districts (Polled fifth and last)

- "I give the same pledges which were carried out at the meeting of electors of which I was chairman, on the evening of 27 July last. [I hold] as a fixed axiom that representation on the part of the elected to the electors, is the grand key to all responsible government, and that this responsibility cannot be made too binding."

Fitzherbert: City of Wellington (Polled third) SCA, Anti-pledge, public & Adv.

- General Assembly should resign some powers to Provincial Council & Super.
- Executive powers to Super. (As act does not provide for them.)
- Elective Upper chamber of higher qualification, i.e. Age.
- EXECUTIVE: Responsible to Legislature, resign on loss of confidence.

Moore: City of Wellington (Polled fourth) GOVT, Pledge supporter.

- "One specific pledge I offer and that is – if elected, I will resign my trust when called upon to do so by a majority of those who conferred."
- Every vote acquired by solicitation loses half of its value; therefore he does not intend to solicit for votes.

Lyon: City of Wellington (Polled sixth) SCA, No comment.

- Has been a friend of Responsible Government and Constitutional freedom.

Kelham: City of Wellington (Polled eighth) SCA, No comment.

- Pledges to do his best: Power of alteration should be used.

Dorset: City of Wellington (Polled second) SCA, No comment.

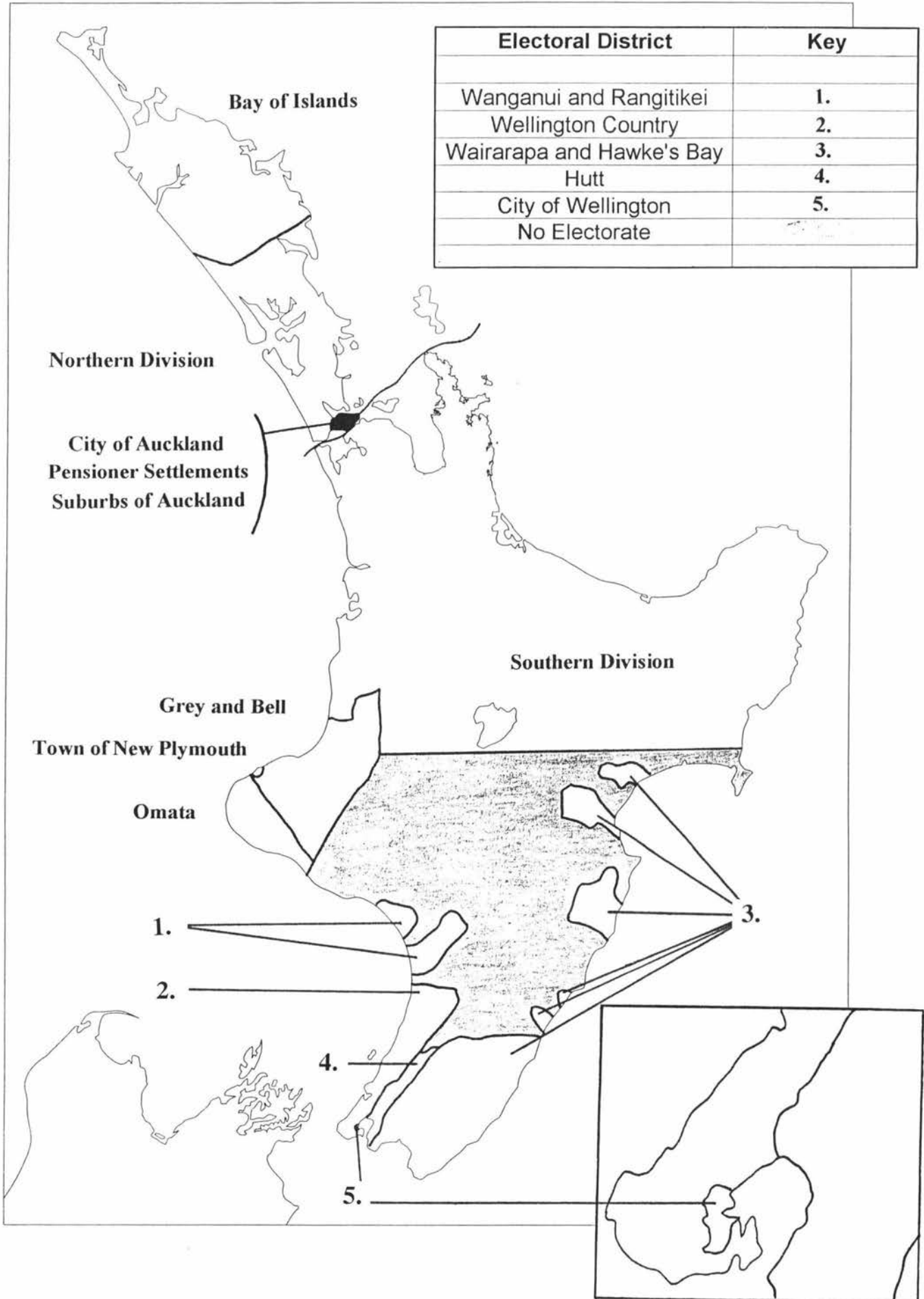
- Administration of public affairs is to be entrusted to those who held confidence of the electors.

Wakelin:

- "I am in favour of a responsible executive."

North Island Electorates 1853

Electoral District	Key
Wanganui and Rangitikei	1.
Wellington Country	2.
Wairarapa and Hawke's Bay	3.
Hutt	4.
City of Wellington	5.
No Electorate	



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