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***Reluctant Democrat — Sir William Denison in Australia 1847–1861***  
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When Victoria held its celebration for the sesquicentenary of responsible government in 2006, it spent its celebratory fund on fireworks. In contrast, in New South Wales, the Premier, Bob Carr, decided to use the money instead to support works of serious scholarship on the history of Parliament and Government in New South Wales and the development of the political system over that 150 years. The result has been the publication of an extraordinary collection of books, sponsored by the Sesquicentenary of Responsible Government Committee, which will leave an invaluable ongoing legacy for the people of the State. In New South Wales, very small investments of government support have reaped lasting benefits with which a fireworks display cannot begin to compete.

This biography of William Denison is the 36<sup>th</sup> book published with the support of the Sesquicentenary Committee, and once again it is evidence of the exceptional quality of these works, both in depth of scholarship and in readability. Bennett originally suggested that the Committee might consider the editing and publication of the late C H Currey's unpublished and unfinished opus on Sir William Denison. For his helpful suggestion, he was repaid by being press-ganged into producing the work. In the end, it turned into a work of Bennett's own — but it draws upon much of the earlier work of Currey.

Sir William Denison is a crucial character in the political history of New South Wales. It was he who was Governor at the most fundamental constitutional turning point when New South Wales obtained 'responsible government' in 1855. He started his term of office in NSW with the immense powers of an autocratic colonial Governor and finished it with diminished, largely figure-head powers, similar to those exercised by a Governor today. He found the process painful and was not a true supporter of the reform. Nonetheless, he shepherded it through and laid the foundations for the parliamentary system of government we retain today.

Denison's background was aristocratic. He was, however, a younger son who had to make his own way in the world. His eldest brother entered into politics, becoming Speaker of the House of Commons and his second eldest brother entered the Church, becoming Bishop of Salisbury. William, being the third son, was destined for the army. He trained as an army engineer and it was the practical approach he developed from his engineering training that marked his period as Governor. The Army also gave him his first taste of the colonies, sending him to Canada for five

years where he was involved in the construction of engineering works on the Rideau Canal.

Denison was fascinated by science and like many aristocrats of his time, he dabbled in scientific experiments and studies of his own initiative. In Canada, he undertook a study of the strength of various North American timbers, using a machine he had devised to test them. He was awarded a prize for the publication of the results of his work. Denison wrote that there is much pleasure ‘in the acquisition of knowledge for its own sake, but, when knowledge is combined with utility, when it is available for the benefit of others, the pleasure is infinitely increased.’

This attitude was reflected in Denison’s term as Lieutenant-Governor of Tasmania (1847–1855) and Governor of New South Wales (1855–1861). He was in his element when dealing with the building of bridges, the draining of swamps and ensuring the education of children. He sought practical outcomes to problems, cutting across formal niceties to achieve results. It was for this reason that he was first appointed as Lieutenant-Governor of Tasmania. The previous Lieutenant-Governor had been dismissed for general incompetence and a replacement was sought who would be practical, have military skill and scientific understanding. Denison fitted the bill and took up the challenge with enthusiasm.

The problem for Denison, however, was that he had no understanding of constitutional law and no patience with the need to comply with its arcane rules. From the very beginning he stumbled into (and often created) constitutional crisis upon crisis. For me, this was the most fascinating aspect of this book. In many cases the crises and the broader issues that they raised seemed very familiar to modern ears. Take for example the problem of chaplains, set out in Chapter 3. Did the chaplains to the convicts come under the jurisdiction of the Governor (as government officers) or the Church? There were also problems with the funding of appropriations, a recalcitrant upper House and the exercise of executive power.

Denison attacked these constitutional issues with military fervour. One of the earliest controversies arose when the Tasmanian Supreme Court held that the *Dog Act* was invalid, because its imposition of licence fees amounted to a tax and the law did not meet the ‘manner and form’ requirements for a tax set out in a British statute. Denison was advised that this finding would affect the validity of a number of other laws. He responded by seeking to remove the judges, rather than fix the laws. He succeeded in removing Justice Montagu (who had been using his judicial office to avoid paying debts to his creditors, thus providing a reasonable ground for dismissal) but failed in his attempt to suspend the Chief Justice for ‘neglect of duty’ in not noticing the invalidity of the *Dog Act* earlier. At that time all laws of the colony had to be presented to the Supreme Court as soon as they were made. A law would then come into effect 14 days later unless one of the Judges found it to be repugnant to — i.e. inconsistent with — the law of England. After failing in his attempt to suspend the Chief Justice, Denison’s second response was to cause the enactment of a law that provided that no colonial law could be held invalid on the

ground of repugnancy once that initial 14 day period had expired. This law was disallowed by the Queen, on the advice of the British Government, on the ground that it was 'unconstitutional'.

Another early challenge was the blocking of the supply. Those Members of the Legislative Council who opposed the transportation of convicts to Tasmania blocked supply in 1848 on the ground that too much money was being spent by Tasmanian taxpayers on the welfare of British criminals. Denison, unperturbed, ignored the Legislative Council and kept spending without a parliamentary appropriation. Again, it was up to the British Colonial Office to advise Denison that he was acting unconstitutionally and must never take such a course again.

Other constitutional controversies faced by Denison included:

- Sorting out the 'chicken and egg' transitional issues involved in moving from a Legislative Council to a bicameral Parliament and a system of responsible government, and seeking the Chief Justice's advice upon the problems involved (Ch 13);
- Deciding whether religious leaders and Supreme Court Justices should be members of the new Legislative Council (Ch 13);
- Refusing a dissolution to Premier Cowper in 1856 (Ch 15);
- Rejecting Premier Cowper's advice to 'swamp' the Legislative Council with new appointees (Ch 15);
- Offering military support to the Governor-General of India without the support of Parliament (which declined to pay for it) (Ch 16);
- Determining the border between New South Wales and Queensland, and keeping New England as part of New South Wales (Ch 18); and
- Seizing and applying the public seal of the colony against the advice of the Premier, who sought to resign as a consequence (Ch 14).

It fell to Denison to implement a system of responsible government in New South Wales. He viewed it dimly, describing the political notion of 'responsibility' as 'clap-trap, a watch-word devised by the unscrupulous as a means of deluding the unwary, meaning nothing but the right of the majority to make fools of themselves without let or hindrance'. Nonetheless, he did his duty and implemented it as best he could.

This book, as with all Bennett's books, is a splendid work of scholarship and an insightful window into a different time. Denison's governorship of New South Wales covered the tipping point from vice-regal rule to responsible government. Perhaps even more than federation, this was the most profound political change in the history of New South Wales. This book will be of great interest not only to aficionados of political history and political biography, but also for those seeking a deeper understanding of our system of government. ▲