



Teacher Reference Document 16



AUSTRALIAN
CONSTITUTION
CENTRE

Unit 3: The introduction of responsible and representative government in colonial Australia
– Year 5 - C & C Strand: Citizenship, Identity & Diversity

Topic 5.1: The colonies introduce Responsible and Representative Government and
the impact on Aboriginal and Torres Strait Islander peoples

How Victoria came to be

Sometimes a powerful political point can be made by protesting in an innovative way. That's how the people of the Port Phillip District of New South Wales managed to be heard by politicians in England and obtain self-government.

The British first built settlements in what is now known as Victoria in 1835. Batman's attempt to achieve a treaty with the Wurundjeri People was rejected by the British, who claimed that the Crown held the underlying right to all land. British settlement proceeded without regard to the rights of the local Aboriginal people. The settlers too found that they were being neglected by the New South Wales (NSW) Government, which was based hundreds of miles away in Sydney. They paid taxes and paid for grants of land, but their money ended up controlled by a Parliament in Sydney and was often spent on other projects outside of the Port Phillip District.

They finally obtained political representation in the NSW Legislative Council in 1843. The City of Melbourne was allowed one elected member and the rest of the Port Phillip District could elect five. But this did not give them true representation. It took so long to travel to Sydney in those days that they either had to elect someone who lived in Sydney to represent them, or choose a local person and pay him an allowance to live in Sydney for most of the year. In practice, some of those elected never travelled to Sydney to sit in Parliament at all, and only one Member elected for the Port Phillip District attended for more than one session of Parliament. It got to the point where electors could see no point in choosing anyone and did not turn up to vote. On one occasion there were no nominations at all for election.

As Melbourne grew and became more prosperous, its population began to lobby to become a separate colony from New South Wales. But it was hard to be heard.



Henry George Grey, 3rd Earl Grey
Source: Wiki Commons

Electing a representative to the NSW Parliament

In July 1848, only four candidates nominated to fill five places in the Port Phillip District. One of the candidates then took the floor, explaining that the election was a farce. He called upon the electors to reject the fiction of their representation in the NSW Legislative Council.



Port Phillip District in 1839



Port Phillip District in January 1840



Port Phillip District - 1 July 1843 – 1 July 1851
Source: Wiki Commons

At that point, the candidate dramatically withdrew his nomination. The other candidates and voters agreed, and decided to elect no one, as a form of protest.

The 'election writ' (i.e. the document that records the result) was returned, with no Member elected. This commenced a policy of 'non-election' as a form of political protest.

Of course this policy was only effective if no one nominated or all voters decided not to vote. How could it be maintained if some electors did decide to nominate candidates and vote? The answer was to nominate and elect someone who could not possibly attend and represent the District in the NSW Legislative Council. Their election would still be a 'non-election'.

The joke that gave Victoria self-government

In those days, a person could be nominated as a candidate in an election without being there or even agreeing to it. One man who was nominated in Sydney Council elections against his wishes campaigned by telling people that he was 'excessively indolent' [i.e. lazy] and 'exceedingly bad tempered'. He won! Perhaps telling the truth helped him.

So when the election for the five seats for the Port Phillip District was re-run in October 1848, and some genuine candidates were nominated, the 'no-election' campaigners nominated the most famous people of the day who lived in the United Kingdom and could not possibly turn up to represent them. First, Captain Cole nominated the Duke of Wellington, who was the great victor over Napoleon at the battle of Waterloo in 1815 and later the British Prime Minister. This resulted in 'a sudden and tremendous outbreak of laughter and disapprobation, hisses [and] groans'. Next the Captain nominated Viscount Palmerston, the British Foreign Secretary. He followed that up with Lord Brougham, a former Lord Chancellor and opponent of slavery. This was followed by cries of 'sit down you fool, sit down', but he did not. Next he nominated the Prime Minister of the United Kingdom, Lord John Russell, followed by Sir Robert Peel, a former Prime Minister.

The voters, however, were not impressed and these famous men received only 4% of the vote. Even the great Duke of Wellington was defeated, unbeknown to him, at Melbourne, rather than Waterloo.

In the separate electorate of the City of Melbourne, the people at the July election had nominated Earl Grey. Earl Grey (whose family had popularised that particular blend of tea) was the British Minister in charge of the colonies. He was the one who had the power to decide whether the Port Phillip District would become a separate colony, with its own Parliament, so that it could have political representation without having to send people to Sydney.

On 20 July 1848, the people of the City of Melbourne actually elected Earl Grey, with 74% of the vote, as their representative in the New South Wales Legislative Council.

It was a joke (or a 'lark' as one newspaper called it), a protest and a political point. Clearly he could not attend, because he lived across the other side of the world. He most likely did not even qualify as a candidate, because he was not a property owner in the colony. But the point was made – and made loudly. As far as the people in Melbourne were concerned, Sydney was as remote to them as London, and any representative they elected in Sydney would know as much about their wants and needs as Earl Grey would in London.

The people of Sydney were unimpressed. The *Sydney Morning Herald* described it as an act of 'flagitious mockery' (i.e. shamefully wicked or villainous). It attacked the 'conspirators for the political crime' of refusing to elect Members in the Port Phillip District election and the 'farce' of electing Earl Grey in the City of Melbourne election. It described their action as 'an affair of treason against the majesty of common sense' and said that they deserved to be whipped.

It must have been a bit of a shock to Earl Grey that he had been elected, without his knowledge, to a Parliament on the other side of the world. But it was the type of shock that ensured that the message got through to him.

The people of the Port Phillip District were serious about wanting their own colony, their own Parliament and the ability to manage their own affairs.

A long and formal 'apology' to Earl Grey was prepared and sent to him. It explained how 'they had been made to feel that they were governed by aliens, strangers and competitors'. It complained about how money raised in the Port Phillip District was now being used to fund public works elsewhere in New South Wales and they were being deprived of the schools, police and political advancement they needed. It asked how they were 'expected to submit to the continued perpetration of injustice?'

Earl Grey recognised that they had a genuine complaint and in 1850 the British Parliament passed an Act which separated the Port Phillip District from New South Wales, named it 'Victoria' (after the Queen) and permitted it to have its own elected Parliament and to draft a new Constitution.

As for Earl Grey, technically he remained a Member of the NSW Legislative Council from 1848 until November 1850 when his seat became vacant due to his failure to attend. By then, there was no need to replace him, because a Victorian Parliament was about to be created.





Topic 5.1 Lesson Two



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How Victoria came to be

Time/Lesson

- 1 hour

Learning Goal

To understand how and why Victoria gained independence from New South Wales (NSW) and became a separate colony with its own Constitution and Parliament. To understand how the settlers around the Port Phillip District, including Melbourne, in 1848, lobbied using types of political protest, formal complaints, threats, and voting tricks, to achieve their independence. To examine the legitimacy of the separatists' complaints and arguments and to see the protest vote from multiple perspectives.

Teaching Reference Documents:

TRD 16. How Victoria came to be

Resources

- Earl Grey Tea Tin (if able to be procured) or packet of Earl Grey Tea
- Sydney Morning Herald Article – 5 August 1848 (criticising the conduct of Victorian voters) <https://trove.nla.gov.au/newspaper/article/28647623?searchTerm=flagitious%20mockery>

Teacher Instruction

Lesson outlines and guiding questions:

- Get the class to list some of the ways the people of Melbourne and the Port Phillip District made their complaints and protests such as political points, voting (or not voting) and jokes, and letter writing to Earl Grey as a form of political protest.
- Ask two teams of students to debate whether voting should be used in this way or is too precious a part of democracy to be misused like this.
 - Was the *Sydney Morning Herald* right to express anger about it and to suggest that it meant the people of the Port Phillip District did not deserve an elected government, or did they have legitimate complaints and deserve to be given their own elected Parliament or Government?
 - Were the over 70% of voters in the Port Phillip District, who acted collectively to disrupt the system and demand change with their creative voting protest, right?
- If the British Parliament had not compromised and passed the Act, allowing Victoria to separate and set up its own parliament, what might have happened?
- Debate whether abstaining from voting (abstinence vote) can delegitimise the result. Take a class vote on an issue on which a percentage of the class might like to abstain - eg should school students have to wear uniforms? After tallying the results, the class votes again but no one is allowed to abstain. Does this change the result?
- Votes could be placed in an Earl Grey Tea tin or tea bag box (if the teacher can procure one).

- While the debaters are preparing their arguments, ask the rest of the students to read the article in the *Sydney Morning Herald* from 5 August 1848, which criticises the conduct of the Victorian voters. Language today has changed quite a bit from that commonly used in 1848. Ask the class to identify all the words they do not understand and make a collective list of them. Then divide up the list and ask groups of students to look up the meaning of their allocated words and use them in a sentence that criticises conduct that is occurring in the world today.

Extension Activity

- Research contemporary separatist movements such as:
 - o Brexit (referendum passed)
 - o The Scottish referendum to separate from the United Kingdom (referendum failed)
 - o New Caledonia's referendums to separate from France (referendums failed)
 - o Fiji's separation from the Crown (coup)
 - o Papua New Guinea's independence from Australia (cooperative)
 - o East Timor's referendum to become independent of Indonesia (rejecting greater autonomy in favour of independence)
 - o Bougainville's independence referendum (referendum passed)
- Where there was a referendum, students should analyse the final vote and prepare a speech on the arguments for and against. Students may instead research a revolution or military coup, or the achievement of independence by cooperation, where no popular vote was taken.
- Students research the 1981 Tasmanian power referendum and the protest vote. The referendum paper gave voters a choice between two dams and 33.25% of voters wrote 'no dams' in protest on the ballot paper. For further information on what happened after the vote: <http://www.australianconstitutioncentre.org.au/nationhood---the-constitution-saves-the-franklin-river.html>

Assessment strategies

Students to submit a speech or written piece on the most important things they have learnt about voting in the context of this lesson.

