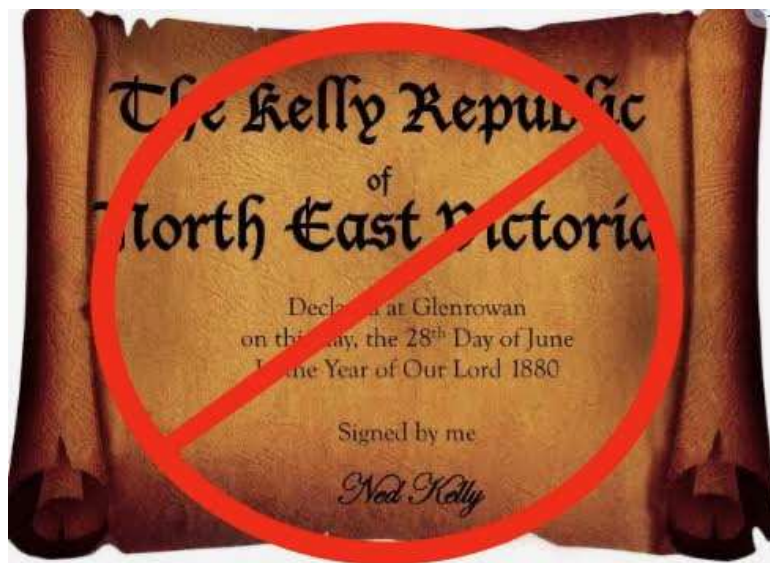


Ned Kelly 2024 and the myth of a republic of North-Eastern Victoria is still a myth



A review of Bill Denheld's *Ned Kelly - Australian Iron Icon: A Certain Truth* (2024), by Stuart Dawson.

This review was published in eight parts spanning late June to mid-August 2024 on the *Ned Kelly: The True Story* blog at <https://nedkellyunmasked.com/>

It is presented here in revised and consolidated form.

Ned Kelly 2024 and the myth of a republic of North-Eastern Victoria is still a myth!

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Background note:

This review is a response to Bill Denheld's critique of my book,
Ned Kelly and the myth of a Republic of North-Eastern Victoria (2018),
which can be downloaded free from <https://gutenberg.net.au/ebooks19/1900551p.pdf>

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Introduction

I was privileged to learn a while back (from Bill himself) that his *Certain Truth* book would include some critique of my *Ned Kelly and the Myth of a Republic of North-Eastern Victoria* (2018), hereafter referred to as my Republic Myth book. It is an interesting take on the Kelly outbreak, essentially arguing that I (following Doug Morrissey) greatly underestimated the number of Kelly sympathisers in N.E. Victoria and missed a key connection between Hurdle Hut schoolteacher James Wallace (who was at school with and remained friends with Joe Byrne), and other links between Kelly sympathisers and various people in the Victoria Land League and the Australian Natives Association which led the push for Federation, achieved in 1901.

Bill asks, was this Federal agenda pushed forward in North-East Victoria by an undercurrent of Irish immigrant republicanism interwoven with sympathy for Kelly in his self-proclaimed role of standing up for the underdog, as seen, for example, in his Jerilderie letter? There is much to unpack here, and unpack it I must, as my book gets a whole chapter titled 'Dr. Stuart Dawson's Republic Myth'. To be clear, Bill agrees up front that "there is no concrete proof of a Republic for North East Victoria led by Kelly sympathisers" (7), and in this he is well away from Ian Jones' Kelly republican dreamland. Bill's view is rather of "a high possibility that a Republic was pending via a political revolution towards self-government" (7), from which I gather he is suggesting that republican (anti-monarchical) sentiments were intertwined with a broader desire to separate from the mother country (England).

Indeed, Victorian Premier Graham Berry appeared to promote this kind of republican end-state view back in 1879. One newspaper wrote that while visiting England "he has taken flight into those realms of Republican space which have been somewhat wittily described as 'The day after to-morrow.' He expected ultimately, said Mr. Berry to the Chelsea Liberals, to see Australia independent, for even now the colonies were more like a Republic than England was like a Monarchy". As the newspaper challenged, however, "how are the Australian colonies going to be a Republic, when as yet they have not formulated the rudimentary system of a federal Government, which ought, we should suppose, to precede a declaration of independence?"¹ This review will explore this and other related issues.

Bill claims that "there had been two previous attempts at a republic in Victoria, one in Portland and another around the Riverina in the late 1860s" (249), but this is not correct. These were separation movements aiming to become distinct separate colonies but still under the British Crown, and both are discussed in my Republic Myth book. There was nothing republican about them. This means that discussion needs to be quite clear about the terms used: republic, vs separation, vs federation, and ensure that these are not blurred together. It also needs to be clear about the perspective here.

Bill has written a complex book that tackles a wide range of topics, as can be seen in his introductory overview. This review only looks at chapters that challenge topics that I addressed in my Republic Myth book, as I think that while Bill has an interesting perspective on these topics, his arguments are not persuasive. In order, I will review Bill's 'class war' approach to what he sees as a land war between squatters and selectors in the Kelly era, the Fitzpatrick incident and its aftermath, the question of reward monies and politics in the Kelly hunt, the Stringybark Creek police murders, alleged relationships between colonial republican sentiments and Kelly links to political movements, and claims about large Kelly sympathiser numbers that I suggest are built on artificial demographic calisthenics. I then review Bill's sections on the Land League and ANA, his suggestion that school teacher James Wallace may have been "the brains" behind the Kelly gang, the fragmentary nature of claims for proto-republican sympathies, and the issue of why Kelly's trial was moved to Melbourne.

¹ *Queenslander*, 'Mr. Berry and Republicanism', 10 May 1879, 593, <https://trove.nla.gov.au/newspaper/article/19780691>

Bill's class war approach: Squatters vs. Selectors

Bill contends that “The Kelly Outbreak was a class war between the Squatters and Selectors” (291): “the Kelly uprising of 1879-1880 was more about who controlled the land, and that fight threatened the stability of the Victorian government itself” (235). “[Most] modern interpretations of the Kelly story forget reasons for the Kelly outbreak, the main [one] being political unrest favouring the earlier land squatters who used the police for political advantage over poor land selectors. There was inequality that inevitably led to crime being committed as retaliation towards the controlling elite. Ned Kelly only ever wanted a fair deal for his class. That’s why he had thousands of sympathisers” (183). In other words, Kelly is claimed to represent a disaffected ‘selector class’: “There was more to the Kelly story than bushrangers. In fact it became the ‘Kelly uprising’ or the Kelly outbreak as the Royal Commission would describe it” (14). This bundles a number of ideas that are incompatible.

The term ‘outbreak’ meaning an outbreak of bushranging was long in use in Australia, particularly with reference to NSW bushrangers of the 1860s (G. Boxall, *History of the Australian Bushrangers*, 1899). By contrast ‘uprising’ typically means ‘an act of opposition, sometimes using violence, by many people in one area of a country against those who are in power’ (*Cambridge Dictionary*) and ‘implies a brief, limited, and often immediately ineffective rebellion, quickly put down’ (*Miriam-Webster*). No such thing occurred in N.E. Victoria. Kelly’s comment to McIntyre, that he had wanted to ‘make a rise’,² had nothing to do with politics. As Julian Burnside noted in his article ‘Bushrangers’, “Make a rise means to strike gold (Boldrewood, *A Miner’s Right* (1890); Idriess in *Lightning Ridge* (1940). In the more general sense of striking sudden good luck, Porter in *Quarter Race in Kentucky* (1836) At his fortified compound in the Wombat Ranges, Ned Kelly had been working for gold, as well as growing corn for whisky, and stealing horses”.³ Striking it lucky fits; although not necessarily earning an honest living. In Boxall’s *History* p. 339, escapee Alpin Macpherson aimed to steal a horse to stick up a mail coach and “make a rise”. The expression ‘make a rise’ in either context refers to improving one’s personal circumstances and has nothing to do with any political uprising.

Bill writes of people “having sympathetic support for the Kellys’ predicament”, and claims that “Many of the ... neighbours [of those blacklisted from taking up selections by the Lands Department in May 1879] would have similar sentiments, if not just for the Kellys *per se*, but certainly regarding the inequity and hardships of living off the land without any government support” (259). This forgets that no-one got any government support. They moved onto the land for the same reason that the squatters took up land: to make a living for themselves on their own patch and, as Doug Morrissey showed, and also as Weston Bates told the 1967 Wangaratta Kelly Seminar,⁴ the majority succeeded. The idea of a disaffected selector class imposes a Marxist-style class framework on pre-industrialised rural Victoria. There were certainly some legitimate selector grievances: Bill notes that “Large lease-holders could do little to stop stock straying into bushland and onto small farmer’s vegetable crops that they might trample; so at first sight any stray cattle were quickly rounded up and locked away up any secluded gully to be later moved out and sold in another district for financial gain” (258).

Here the problem is not just that cattle and horses were branded making brand alteration necessary. What is being suggested is that stock theft was legitimate because of the damage done by strayed stock. But there was a legal solution to hand: impounding; the same process that Kelly moaned about in his Jerilderie letter, of large stockholders impounding poor farmer’s stray cattle. Why would a poor farmer risk three years’ gaol for feloniously taking stock when he could legally impound the

² Kelly said “that they had no money or horses, and wanted to make a rise”, *Argus*, 11 August 1880, 3.

³ Julian Burnside, ‘Bushrangers’, <https://www.ironoutlaw.com/writings/bushrangers/>

⁴ Bates, in C. Cave, ed., *Ned Kelly: Man & Myth* (Cassell, 1968), 186.

offending beast at the government pound and inconvenience the owner by his having to bail it out? While some might have had sympathy for the Kelly's predicament, such as favourable recollections of the family when they lived at Avenel,⁵ that changed when Young Kelly came to fame as a larrikin. The only class the Kellys seem to have progressed to was the criminal class, not the selector class.

Bill claims that the 1881 Royal Commission "was not set up to question the cause of the Kelly outbreak but to question all those associated with the Kellys and their sympathetic followers" (240). This is a rather bold claim given that the first of its five objectives stated in the 1881 *Second Progress Report* was explicitly "To inquire into the circumstances preceding and attending the Kelly outbreak". Its other objectives have nothing to do with questioning those associated with the Kellys but rather to inquire "as to the efficiency of the police to deal with such possible occurrences; to inquire into the action of the police authorities during the period the Kelly gang were at large; the efficiency of the means employed for their capture; and generally to inquire into and report upon the present state and organization of the police force". The entire focus of the Royal Commission was on the efficiency of the police or lack thereof; not the Kellys' and friends' comings and goings.

Perhaps the wildest pair of Bill's class-based claims are that "Ned Kelly was sentenced to death by hanging with the express purpose to show the lower classes of society that they should not meddle with the conservative controlling elite. There was already a rebellious uprising in north-eastern Victoria and the last thing they wanted was for the press to criticise the authorities who were their mates" (303); and that "Kelly should never have been classified as an outright criminal because he was fighting against inequality dished out by the self-appointed aristocrats intent on political control, and as a result they got rid of Ned and also any other opposition when there were no democratic elections and thereby reducing any opposition to their democratic government" (311).

Against this, first, Kelly was sentenced to death for the capital crime of wilful murder, a crime of his own choosing which he could have avoided by leading his gang away from Stringybark Creek and Bullock's Creek up the stock theft route that ran along the Fifteen Mile Creek (illustrated at the front of Doug Morrissey's *Lawless Life*), where, as Bill's sympathiser pin map (257) shows, there were a number of friends and relations of the Kellys who could have aided their escape north through Lake Rowan and Yarrawonga into New South Wales. Up until Stringybark Creek the manhunt was sporadic and for the Kelly brothers alone, and leaving Victoria would have still been relatively easy for them.

Second, there was no rebellious uprising in north-eastern (or any other part of) Victoria identified by Bill before or after Stringybark Creek or before or after Glenrowan. What he identified is a Victorian Land League movement founded in 1856 to campaign for the right of all Victorians to acquire up to 160 acres of public land,⁶ and links this with immigrant Irish activist John Walshe who was sponsored to Australia by the Joseph Winter, proprietor of the *Catholic Advocate*, to raise funds for the Irish Land League and who declared it non-revolutionary and non-communistic.⁷ Bill says that "Walshe would establish the successful model for the Irish Land League in Australia. He travelled all over the place preaching land reform, while the ANA was opening hundreds of branches throughout Victoria and NSW" (236). This all seems irrelevant as Walshe arrived in 1881, well after Kelly's death and 25 years after the Victorian Land League was founded. The hazy connection with Kelly seems to be that Winter had married David Gorman's daughter, whose brother E. James Gorman had gone to primary school for 6 months with Ned Kelly in 1863; and Winter's brother Samuel was a foundation member of the ANA (chart, p. 21), which launched in 1871. In 1871 Ned was doing 3 months' gaol for assault.

⁵ Amelia J. Burgoyne, *Memories of Avenel* (2nd edn, 1955), 38.

⁶ *Age*, 29 December 1856, 5, <https://trove.nla.gov.au/newspaper/article/154869754/18213599> (It is not clear if the newspaper text image says 100 or 160 acres. I have used 160 but that may be wrong.)

⁷ *Sydney Morning Herald*, 25 March 1882, 3, <https://trove.nla.gov.au/newspaper/article/13507957#>

The second movement Bill identified was the Australian Natives Association which despite its having numerous branches did little before 1883, when it “came to the front with a rush ... under Bendigo lawyer Jefferson Connelly. It may be fairly said that from 1883 onwards the growing influence of the ANA was never absent from consideration of Federal issues; and that the steady work done in its branches contributed in large degree to render the movement actual and persistent”,⁸ noting that “the ANA was powerful only in Victoria”.⁹ A colonial Federation movement drew on both prior movements and by almost a series of political accidents achieved Federation in 1901. None of this was rebellious or republican, nor was there any inevitability about it. Alfred Deakin, one of the leading protagonists of Federation, said in 1900, “Regarded as a whole it is safe to say that if anything ought to be styled ‘providential’ it is the extraordinary combination of circumstances, persons and their most intricate inter-relations of which the Commonwealth is about to become the crown. To say that it was fated to be, is to say nothing to the purpose: any one of a thousand minor incidents might have deferred it for years or generations. To those who watched its inner workings, followed its fortunes as if their own, and lived a life of devotion to it day by day, its actual accomplishment must always appear to have been secured by a series of miracles”.¹⁰ There is nothing to show the Kellys had any connection whatsoever with any of these political movements.

There was no separation movement in Victoria as it had already separated as a distinct colony in 1851, stemming from the New South Wales Constitution Act of 1842 which formally recognised the separate colony of Victoria.¹¹ Portland’s wish to separate from Victoria in the 1860s had a certain novelty but it did not contemplate rebellion from the Crown; nor did the NSW Riverina movement.

There is nothing anywhere to suggest that Kelly or his gang fought against aristocratically minded squatters or anyone else on a class basis. The vast majority of victims of their stock plundering were other small selectors and passing drovers.¹² To think of the Kelly gang as Robin Hoods after knowing that is impossible, although many have expressed that thought without any analysis of their larceny.

Bill suggests that the colonial government was intent on taking control of the ‘Kelly country’ at every opportunity “to quell any uprising and knowing that if they did not succeed, there could be a revolution instigated by the lower classes. To that end they needed to kill off any popular uprising primarily manifesting itself as ‘the Greta mob’ and amongst them the Kelly brothers and their mates, supporters and their class of disadvantaged settlers, families and friends” (98). This is a very long bow: Ned Kelly’s Sympathisers were analysed in an article of that name by Doug Morrissey in 1978,¹³ with Greta Mob members identified. Of the 119 sympathisers listed, 14 are women; 46 are selectors. Within that 119 total, 37 are Greta Mob members, but only 5 were selectors; most were labourers. The Greta Mob were local larrikins known for dressing flash, pub fights and yahooping, not political rebels. There was not the slightest danger of any political uprising from these country layabouts. No such suggestions appear anywhere; not in the *O&M* or any other paper, and not in the police files.

Almost 6 pages of Bill’s book (91-97) are extracts from Ambrose Pratt’s 1911 fiction novel, *Dan Kelly, Outlaw*. Some lines are bolded, including one that reads, “The Victorian people hated the squatters very thoroughly. Cattle duffing was a serious crime, but it did not injuriously affect the masses. The cattle duffers preyed only on the squatters, and the squatters were ‘public enemies’” (95). This is

⁸ Alfred Deakin, *The Federal Story: The inner history of the Federal cause* (Melbourne, 1944), 4.

⁹ Deakin, *The Federal Story*, 5.

¹⁰ Deakin, *The Federal Story*, 166.

¹¹ Ben Reid and Caleb Triscari, *Visualising Victoria’s electoral history*, Victorian Parliamentary Library and Information Service Research Note No. 12 (November 2022), 3.

¹² Doug Morrissey, ‘Ned Kelly and Horse and Cattle Stealing,’ *Victorian Historical Journal* 66.1 (1995), 40-41.

¹³ Doug Morrissey, ‘Ned Kelly’s Sympathisers,’ *Historical Studies*, 18 (October 1978), 288-296.

preposterous nonsense easily countered by Doug Morrissey's 'Horse and Cattle Stealing' article.¹⁴ Morrissey also noted in regard to all this that "Agrarian outrages' committed against the property and livestock of squatters were crimes of passion rather than the outpourings of political discontent; agrarian crimes were committed in roughly equal measure against selectors, merchants, drovers, hawkers and, in fact, against anyone who happened to offend their neighbour".¹⁵ To see class war underpinning everything is to greatly overstate isolated examples of disharmony: "For much of the time relations between small and large landowners were amicable. On numerous social occasions both groups worked together for the common good, offering their properties as venues for ploughing matches, horse races, church picnics and a variety of other community festivities. ... The experience of selectors in their country of origin and their own initially insecure economic position, together with the time consuming labour of establishing a farm, disposed selectors towards an acceptance of the legitimacy of community leadership by the rich and powerful".¹⁶

Bill goes well beyond the evidence in claiming that "It must have been an important endeavour for Pratt to record the intricate political situation and to write what he did in the first person account of *Dan Kelly Outlaw*" (286). Pratt was a sensationalist writer cashing in with trash history woven around his whopper of a tale of Dan's survival from the destruction of the gang at Glenrowan. Dean Gibney saw the bodies of Dan Kelly and Steve Hart in the Glenrowan Inn before fire consumed them, and believed that they had committed suicide: "I did not see any [weapons in their hands], and I cannot say that I saw any sign of blood; in fact, my impression was that they must have laid the pistol upon their breasts and fired into their hearts; but that is only conjecture, for I did not see the wounds about them — about the bodies, or on the bodies" (RC, Q.12319; 12325). When asked, "Although you saw no firearms about them, you still think they committed suicide?", he answered, "From the position; I could not judge of anything except from the position in which they were lying. They lay so calm together, as if laid out by design (Q.12334). So: no sign of firearms on the two neatly lying bodies, and no sign of wounds or blood despite his theory that they must have "laid the pistol upon their breasts and fired into their hearts". Yet we know a bag of poison was found on Byrne's corpse. With no sign of wounds or blood on the bodies, poison is the logical, almost necessary, conclusion.

In another section Bill says, "There is no doubt that most of the lower class children often found themselves in trouble with the law, as in one case Ned was charged with alleged 'horse stealing' and was locked up for three years even though he claimed the horse he was riding was lent to him. We can imagine no matter if his crime was true, 3 years in gaol was an unacceptable punishment for a young lad that would earn a lifelong hatred for the law makers" (62). We could test this class bias claim by tracing what happened to all of the children that attended Beveridge and Avenel primary schools between mid-1863 and mid 1865 when Ned was present. Most were the children of local farmers. I'd guess that none made the news later as criminals. The example here also misrepresents Ned's case. He was charged with horse stealing and feloniously receiving a horse. The stealing charge was thrown out because Ned had been in gaol at the time the Mansfield postmaster's horse was stolen. Feloniously receiving (knowingly receiving stolen property with the intent to resell it) was proven beyond doubt, and three years was the typical sentence applied to that offence in that period, as a search of Trove newspapers shows. By then Ned was already a seasoned criminal having earlier been Harry Power's accomplice in highway robbery and was then just released from gaol for assault. Ned made his three years far harder for himself than it needed to be by being transferred to Pentridge prison halfway through his sentence, and then to the hulk *Sacramento*. The hulks were

¹⁴ Doug Morrissey, 'Ned Kelly and Horse and Cattle Stealing,' *Victorian Historical Journal* 66.1 (1995), 29-48.

¹⁵ Doug Morrissey, 'Selectors, Squatters And Stock Thieves', LaTrobe University Ph.D. thesis (1987), 69.

¹⁶ Doug Morrissey, 'Selectors, Squatters And Stock Thieves', LaTrobe University Ph.D. thesis (1987), 71, 72.

designated penal establishments and were typically used for the least cooperative prisoners.¹⁷ One can feel little sympathy for such an incorrigible malefactor who was already beyond redemption.

Bill wrote that in the Kelly era “there were no democratic elections” (311). He goes so far as to claim that “True democratic elections did not come about until after 1901 and prior to that the only option for change was a rebellious one” (265). This is obviously not correct. Provision for election to the newly established Legislative Council and Legislative Assembly was enacted in 1856. The property qualification for the Legislative Assembly was abolished in 1857, and electoral registration established. In 1863 the Electoral Act extended the franchise to all ratepayers.¹⁸ Had Ned Kelly decided to settle down on a little patch of his own, he too would have been enfranchised. His preferring the life of a “rambling gambler” (Jerilderie letter) meant he missed out. Too bad, so sad.

Constable Alexander Fitzpatrick and the ‘Fitzpatrick incident’ of 15 April 1878

Bill claims that Fitzpatrick set Kelly “on his defiant anti-establishment path” (18), omitting that Kelly had served two gaol terms including on a Melbourne hulk before he had ever heard of Fitzpatrick. Bill says without giving a source that “It is believed that Kelly and Fitzpatrick had illicit horse dealings in the past and it is thought that this may have given Fitzpatrick reason to distance himself and confront the Kellys” (19). This is impossible. Before Fitzpatrick joined the force he was a boundary rider in Frankston.¹⁹ During the three months after his joining the force, from 20 April to 31 July 1877, he was based at the Richmond depot until his transfer from Melbourne to the northeast on 31 July 1877. At some unknown point for an unknown period during that time he worked at Schnapper Point near Mornington (RC, Q.183). We don’t know why he was at Schnapper Point, but at a day’s ride from Richmond it was likely part of police training in a district with which he was familiar having been a boundary rider there. He would have been housed in a police station during his time there just as he was at the Richmond depot, and later at Benalla (working a 12 hour day), as was standard for unmarried constables.²⁰ Further, if he was then wooing Anna Savage in Frankston,²¹ he can’t have been gallivanting around the Ovens district having illicit horse dealings with Kelly. Then, in Benalla, like all mounted officers he had to account for each time he took a horse out of the stable and where he rode to, in the *Diary of Duty and Occurrences* maintained daily in every police station.²² There is nothing to support Bill’s unreferenced claim that to prove himself to his superiors Fitzpatrick “was to be stationed at a risky outpost known as Edi on the way to the King River” (86) at any time.

Bill gives two strikingly different endings to the Fitzpatrick incident in different chapters. First, that “Fitzpatrick stopped at the Winton pub and while having several drinks began to boast how he was going to fix this Greta mob once and for all. Perhaps while intoxicated he came past the Kellys place” (99). Bill’s presentation of the Fitzpatrick incident (99-100) is Kenneally’s 1929 version slightly reworded, omitting the part where Fitzpatrick pulled Kate Kelly onto his knee as she passed by. As with Kenneally, this version has Fitzpatrick advising Ned and Dan to go bush before he departs.

¹⁷ *Penal and Prison Discipline Progress Report 1870 – 2nd Session, No. 18*, Appendix A, “Prisoners of notoriously criminal habits, professional thieves, and men of incorrigibly bad conduct whilst in confinement ... should be stationed in one of the hulks, as proposed in the Under Secretary’s communication, and employed at the defence works at the Williamstown batteries.”

¹⁸ Ben Reid and Caleb Triscari, *Visualising Victoria’s electoral history*, Victorian Parliamentary Library and Information Service Research Note No. 12 (November 2022), 3.

¹⁹ Justin Corfield, *The Ned Kelly Encyclopaedia* (South Melbourne: Lothian, 2003), 163.

²⁰ Robert Haldane, *The People’s Force* (M.U.P., 1995), 106. Fitzpatrick was transferred from Benalla to Beechworth on 13 September 1878 as no longer required in Benalla; but had been recorded as “an efficient constable” as recently as 22 June 1878 (Victoria Police, *Record of Conduct and Service*, Register No. 2867).

²¹ John Molony, *Ned Kelly* (Allen Lane, 1980), 96.

²² Robert Haldane, *The People’s Force* (M.U.P., 1995), Ch. 3, fig.1.

The second version is also built around Kenneally but ends with Fitzpatrick suggesting that Dan present himself at the police station the next day (232). The contrary endings are irreconcilable, quite apart from the tales being obviously and demonstrably wrong.²³ Bill also claims that “according to evidence gleaned from Kate many years later she said Fitzpatrick made inappropriate advances to her” (232). No source is given for this claim; the only place it appears is Kate Kelly’s February 1879 interview which all parties later denied (see my ‘Redeeming Fitzpatrick’ article on both points).

Either way, Bill argues that “The [response to the] incident was rooted in Fitzpatrick’s claim that Ned Kelly had tried to murder him” (47). We don’t know what Fitzpatrick said to his Sergeant upon his return to Benalla Police Station; whether he claimed an attempted murder, which is something that he never stated later in any statement or evidence, or whether he only stated that he had been fired at and shot in the wrist by Ned Kelly, which seems the case (*RC*, Q. 2). What we do know is that under the law of that time, where an officer properly executing an authority to arrest is resisted, “it will be murder in all who take part in such resistance; because the officers of justice are under the special protection of the law”.²⁴ It follows that the charge of attempted murder for Kelly firing at Fitzpatrick was appropriate under that special protection of the law; and the charges against the others of having aided and abetted the attempted murder of a police constable were correctly laid.

Mrs Kelly’ arrest after the Fitzpatrick incident

Bill claims that “word got out to Ned and Dan of their mother’s arrest and soon the whole back country was in uproar” (232). There is no evidence of any such whole back country uproar either in Bill’s book, other Kelly books, or anywhere else that I have seen. Not even one source suggests that the arrest of Mrs Kelly cause any uproar at all outside of her immediate family and relations. Some thought she had been hard done by as being gaoled with her baby until her bail was paid (as it was), and some thought her subsequent sentence of three years’ gaol excessively harsh. The fact however is that her three years lenient compared with the six years with hard labour given to both Skillion and Williamson for their part in the affray. If one of those men was actually Byrne and not Skillion,²⁵ the only way that could be rectified would be Byrne turning himself in, which he wouldn’t do. In any case, Mrs Kelly had admitted her involvement in the attack on Fitzpatrick (*RC*, Q. 9214). The key point here, however, as the newspapers show, is that most of the back country was outraged by the shooting of Fitzpatrick, not by the arrest of the notorious Mrs Kelly for her involvement in the affair.

Were the Kelly brothers hunted for reward monies after the Fitzpatrick incident?

Bill wrote that while on the run after the Fitzpatrick incident, “Both Ned and Dan by this time had £200 rewards offered for their capture” (105). He meant £100 each, as is clear from p. 253 when he says, “The Kelly brothers may have been only wanted for questioning, [they] soon learned of their arrest warrants and at £100 each they knew they could be shot on sight, treated very harshly and imprisoned” (253). He repeats the claim in a couple of places, e.g., “It is well known that the police were offered reward monies for the capture of the Kelly brothers. This reward lured two parties of police to hunt the Kellys down” (221). He then suggests there was more to the hunt than the lure of money, asking “Why did the Kelly brothers attract such substantial rewards? This appears more than a simple manhunt, taking on a notably political dimension that endured for over two years” (48). As to what that political dimension might be, Bill claims that “As far as the Kellys were concerned the Fitzpatrick incident fired a ‘cooked up plan’ to stifle any opposition to the Squatters control” (254).

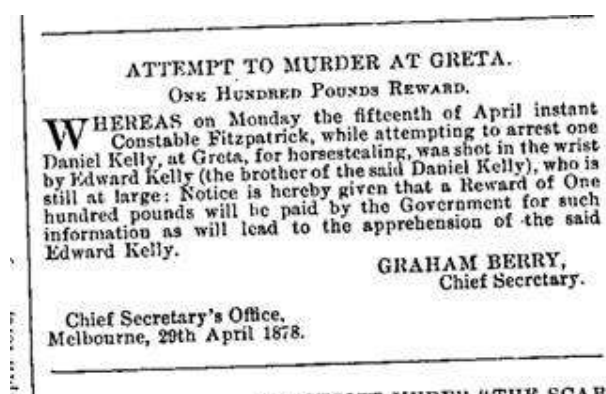
²³ See S. Dawson, ‘Redeeming Fitzpatrick’.

²⁴ Joseph Gabbett, *A Treatise on the Criminal Law* (Dublin, 1835), 477.

²⁵ See S. Dawson, ‘Redeeming Fitzpatrick’ for the analysis and evidence.

This is a complex set of claims that seems to go like this: the squatters called the shots in Parliament. The police acted to protect the political interests of the squatters. The Kellys stood up to the squatters, therefore the squatters put up money to spur on the capture of the Kellys. In the middle of his discussion of the hunt for the Kelly brothers, Bill states that “Reward monies came primarily from the Squatters funds through the Melbourne Club” (105). He further states, “The police union saw to it that the police who were already paid a good wage, estimated around £2 a week, could also claim the reward monies. So a police party of four could claim £200 for capture of Ned and Dan. Not a bad incentive considering by law they were also allowed to shoot and kill if necessary” (101). Bill asks, “A question is whose fault is it that two police parties were sent out to bring the Kellys in with a financial reward on their heads, seemingly as an incentive for the police, and all because of Fitzpatrick’s claim of attempted murder, even though there was no proof except for a skin wound on his wrist. A bullet would have passed right through if from a pistol” (254).²⁶ He concludes this unfair persecution, based on a false claim of attempted murder, made a showdown inevitable: “The Kellys had little choice but to defend themselves against the expected doomed outcome of unfair harsh treatment being dished out to anyone who fell out with the Squatter’s self-appointed laws” (253).

All of this is problematic. The claim that £100 rewards were offered for the capture of both Ned and Dan is fairly common. The *Australian Dictionary of Biography* says “Rewards of £100 were offered for the apprehension of Ned and Dan Kelly, who went into hiding in the Wombat Ranges near Mansfield”.²⁷ Keith McMenomy likewise wrote in his *Ned Kelly: The Authentic Illustrated History* that “In April 1878 a £100 reward was offered for each of the brothers”.²⁸ All these claims are wrong. The only Kelly with a gazetted reward was Ned, issued on 29 April and published on 3 May 1878,²⁹ for the attempted murder of Constable Fitzpatrick; and the £100 was “for such information as will lead to the apprehension of the said Edward Kelly”. The basis for the misunderstanding may be due to Standish in *RC*, Q. 6 stating that “A reward of £100 was also offered for the apprehension of the Kellys”, but his recollection (or wording) was imprecise.



There was no reward offered for information about or for the apprehension of Dan before the Stringybark Creek murders. Further, the reward was for members of the public for providing relevant information, not for the police. Police did not get a reward for apprehending a wanted person; that was their job. As Lachlan Strahan explains it, police could if lucky supplement their pay with reward monies. “Half of all fines were channelled into a Police Reward Fund established in 1849, and the

²⁶ There has been much discussion of the bullet. A .31 revolver was one of Ned Kelly’s known pistols. With small black powder revolvers such as the .31 Colt, both the precision and the “man-stopping power” was unpredictable - Gregory Blake, *The Eureka Stockade* (Big Sky, 2023), 30, cf. 131, 196-7.

²⁷ *Australian Dictionary of Biography*, <https://adb.anu.edu.au/biography/kelly-edward-ned-3933>

²⁸ Keith McMenomy, *Ned Kelly: The Authentic Illustrated History* (Hardie Grant, 2001), 88.

²⁹ https://gazette.slv.vic.gov.au/view.cgi?class=general&state=V&year=1878&page_num=963

monies used either to reward officers for meritorious conduct or compensate them for injuries or working excess hours”.³⁰ Only with the later Outlawry Act might a reward be thought of as a bounty.

Bill also claimed that “the Squatters were represented by ‘The Melbourne Club’ that provided the bulk of the reward monies offered for the capture of Ned and Dan following the Fitzpatrick incident” (63). Not only was there no reward for Dan as clarified above; the £100 was from the Government, not the Melbourne Club; and it was not for Ned’s capture but for information leading to it. Second, the Kelly brothers could not be shot on sight; they were not (at least, not yet) outlaws. As Constable McIntyre said to Ned Kelly, and later testified, if they had come across the Kellys they would try to arrest them; only if they faced armed resistance might they consider the prospect of shooting the wanted men. Indeed, even after outlawry felons could only be shot if they were armed or reasonably thought to be armed and not able to be taken without running a real risk of armed resistance.³¹

The idea that the police might get a reward for capturing the Kelly brothers seems to be built around *RC Q.15529* where J.H. Graves M.L.A. says “It has been stated, I think, that that knowing there was a reward for Ned Kelly, that the chances are that Sergeant Kennedy and Scanlan went off together for the purpose of capturing them [Ned and Dan] by themselves and getting that reward. I think that is extremely unlikely. I think it was simply that they did not know where the hut was.” What seems to have happened is that Graves’ rebuttal of a scurrilous allegation was misunderstood to suggest that there was a bounty for the apprehension of the Kellys post-Fitzpatrick when no such thing existed.

This in turn led Bill to a completely unjustified attack on the character of Sgt. Kennedy: “Kennedy must have thought the capture of the Kelly brothers an easy task and with reward monies of £100 for each of the Kelly brothers and their mates, who were now seen as a gang, Kennedy saw this as a worthwhile venture and recruited three other troopers to join his party” (212). This cannot be left unchallenged. Bill has incorrectly inflated the £100 reward for “such information as will lead to the apprehension” of Ned into multiple rewards of £100 each, not just for both brothers, but for all four members of the Kelly gang, the existence of which was unknown before the Stringybark encounter. The whole “reward incentive” theory must be rejected. There was one £100 reward for information about Ned Kelly only; it was not from the Melbourne Club; and the police were not eligible for it. It is hard to see why this theory was maintained in the wake of Leo Kennedy’s 2019 *Black Snake* book.

Ambush at Stringybark Creek, 26 October 1878

Bill disputes my description of Stringybark Creek as an ambush by defining ‘ambush’ as “a surprise attack by people lying in wait in a concealed position” (249). He argues that neither the initial encounter between the gang and officers McIntyre and Lonigan, nor the second encounter of the gang with Kennedy and Scanlan, were ambushes: the gang “staunchly walked into the camp [i.e., not lying in wait] and demanded that they raise their hands”; and when the other two returned to camp, “although the Kellys lay in wait, the returning police were warned [by McIntyre] to surrender. This later event was not an ambush” (250). This is splitting hairs. Another equally common definition is “a sudden attack made from a concealed position”,³² which does not require lying concealed in wait, and accurately describes the first advance of the Kelly gang from their concealed position behind a five foot tall stand of speargrass. In the subsequent second ambush the returning police thought

³⁰ Lachlan Strahan, *Justice in Kelly Country* (Monash UP, 2022), 34.

³¹ S. Dawson, ‘Ned Kelly Outlawed: The Victorian Felons Apprehension Act 1878’, *law&history* 8.1 (2001).

³² “Noun: 1. A sudden attack made from a concealed position; 2. Those hiding in order to attack by surprise; 3. The hiding place used for such an attack”, *American Heritage Dictionary of the English Language*, 5th edn., <https://ahdictionary.com/word/search.html?q=ambush>; “the act of attacking unexpectedly from a concealed position”, *Hamlyn Encyclopedic Dictionary/Macquarie Dictionary*.

McIntyre was jesting when, seemingly alone, he said they were surrounded. Both were armed attacks from concealed position, i.e., ambushes. No other word describes the events so clearly.

Bill returns to his narrow definition of 'ambush' several times, writing that "If Kelly had been able to convince the court that he and Dan and the others had no intention to ambush but rather they simply approached and walked into the strangers' camp demanding them to bail up then perhaps Kelly's conviction for the murder of Lonigan may have been reduced to self-defence or at worst, manslaughter" (292). He agrees with the McIntyre sketches that show that the gang first approached in a line from the south but ignores McIntyre's repeated testimony that they advanced rapidly from concealment behind a belt of sword grass about 5 feet high (also shown in his detailed sketch). From Bill's presentation one might think the gang simply wandered up in plain view, which is not correct.

Two pages later he again insists that McIntyre's sketch "shows the four men entering the police camp from the south, all in a straight line side by side, rather than from different directions which could then be described as an ambush formation" (294). As above, the men's alignment is irrelevant. Bill continues in regard to Burman Photo 2, "In the first instance they did not sit and wait, as this would have been an ambush. They just walked into the camp and demanded that they bail up" (302). This all aims to support Bill's view that Kelly "was put to death for an act of self-defence" (15). This won't wash. The gang knew the four men were police troopers the day prior to the attack. In the second place, the gang's attack on the returning troopers Kennedy and Scanlon for which they lay in wait in concealed positions perfectly reflects Bill's preferred definition of 'ambush'. Q.E.D.

As Redmond Barry J. summarised the situation at Kelly's trial, "Regard them [the police in bush clothes] as civilians—he used the word because it had been made use of in the course of the trial, although he thought it inappropriate—what right had four other men armed to stop them? ... These men were persons charged with a responsible and, as it turned out, a dangerous duty, and they were aware of that before they started. They went in pursuit of two persons who had been gazetted as persons against whom warrants were issued, and they were in the lawful discharge of their duty when in pursuit of these two persons; therefore they had a double protection — that of the ordinary citizen, and that of being ministers of the law, executive officers of the administration of the peace of the country. Whether they were in uniform or not, there was no privilege on the part of any person to molest them, and still less was there power or authority to molest them as constables".³³

Bill claims Burman's Stringybark Photo 1, which was produced in court, provided visual evidence that the Kellys were not the aggressors based on the orientation of the photo, which comes down to a longstanding argument between himself and the CSI@SBC group about the direction the photo was taken from. Accepting that Bill is right about the orientation, the photo is still just an approximate postcard reconstruction of the event showing where it happened, not a forensic re-enactment. Bill noted a committal hearing challenge that, because McIntyre had not witnessed the death of Lonigan with his own eyes as was facing towards another direction, perhaps someone other than Ned Kelly had shot Lonigan dead (293). This is nonsense: McIntyre's testimony was that he was facing the four men; only Ned fired, and Lonigan died. What McIntyre didn't see was the bullet hit Lonigan who was standing behind and to the left of him; but he did turn his head and see part of Lonigan's fall. Bill further suggests that McIntyre's Beechworth deposition "by all accounts varied from his first" (293). This too is not correct, as can be seen by reading all statements and evidence given by McIntyre.

The idea that McIntyre's statements were inconsistent was a horse started by Ian Jones in the 1967 Wangaratta Kelly seminar and maintained by him to the end. It has been massively influential but it is simply wrong. It depends on Jones taking Sadleir's 1913 provably erroneous *Recollections* of the

³³ *Argus*, 30 October 1880, 8, <https://trove.nla.gov.au/newspaper/article/5977228>

event and using that to assail McIntyre's numerous statements which are highly consistent.³⁴ It is wrong to accept Jones' "by all accounts varied" claims as worth even the paper they are written on.

In any case, as with the issue of shooting at and wounding of Fitzpatrick discussed earlier, constables enjoyed a special protection under the law of that time (as Barry J reminded the Melbourne court), and in Lonigan's case wilful murder was that only charge that could be prosecuted and argued.

Underpinning Bill's narrative of Stringybark Creek is again a political suggestion. To Bill, the Kellys were harmlessly taking care of themselves: "While at Bullock Creek they did gold panning and sluicing, and grew sugar beet with a still for alcohol to sell as sly grog" (102). "The reason two police patrols were sent is more to do with the failure of government with a political bias in favour of the squattocracy and their land acquisition system. Their intention was to quell any possible 'uprising among the settlers' who were the most disadvantaged part of society throughout Victoria, but mainly in the North East" (104). Both of these claims are unsustainable. The reason two police patrols were sent out at the same time in October 1878 was to continue the search for two alleged offenders wanted on charges of attempted murder and of aiding and abetting an attempted murder respectively, following a tip-off, not anything to do with government failure due to political bias.

The October search parties were only two of many that were sent out,³⁵ with the Stringybark Creek patrol ending in tragedy. Ian Jones' claim that selectors in Victoria generally were particular disadvantaged was rejected by Weston Bates in his response to Jones in *Man & Myth* (1968); and while Bates was willing to concede that a minority of people around Greta may have been so affected, Doug Morrissey's 1987 Ph.D. analysis of selector fortunes demolished that theory as well. Woven into the narrative is the old chestnut that what triggered the gang to attack the police camp was "what looked like 'undertaker body straps' and packhorse equipment on the ground" (19). There is no reference for this because it is fiction. The Kelly gang never said any such thing, nor put any such accusation to McIntyre in his interrogation. It comes from Ian Jones claiming to have read something in "the Kinnear papers" that no-one else has ever seen, that some long straps in a 1930s stable were really straps souvenired from somewhere that had originally been body straps bought by the police from a Mansfield saddler for the SBC trip and thus proving the murderous intent of the search party! It is just conspiracy theory run riot.

As a side point, Bill disputes what Leo Kennedy wrote in *Black Snake* about the death of Sergeant Kennedy, saying that Leo "has a theory that Kennedy was standing upright when shot through the chest, but that is quite unlikely as Kennedy had time to write a small note to his wife while lying on the ground mortally wounded. Also ... the gunshot to his chest had blown his backbone out" (213). What Leo wrote was in regard to one of Kelly's statements, that Kelly "shot him in the armpit as he was behind the tree. Medical evidence would later show that the only way this could have occurred was if Sergeant Kennedy had his arms straight up in an act of surrender", and it was at a later time that he was executed by the shotgun blast to the chest.³⁶ That time was after some hour and a half of interrogation as reported in G.W. Hall's 1879 *The Kelly Gang; or, Outlaws of the Wombat Ranges*. Ned Kelly himself corroborated the event when addressing his prisoners at Younghusbands' station before the Euroa robbery: "Ned Kelly said he was d—d sorry that Sergeant Kennedy was shot, he had no intention of shooting him if he had surrendered. Kennedy fired five shots at them as he was escaping, some of which grazed Kelly's clothes, and one hit him in the sleeve of the coat. Kennedy was making for a tree, and was partly sheltered, when he was first hit in the arm. This caused him

³⁴ Ian Jones, response to Waller, in C. Cave, ed., *Ned Kelly: Man & Myth* (Cassell, 1968), 142; John Sadleir, *Recollections of a Victorian Police Officer* (Penguin Facsimile [1913] 1973), 187-8.

³⁵ Thomas McIntyre, *A True Narrative of the Kelly Gang* (PDF, Victoria Police Museum), 7.

³⁶ Leo Kennedy, *Black Snake* (Affirm Press, 2019), 108.

instinctively to move his arm up, and Kelly, thinking he was taking aim at him, shot him in the side, and he fell, for which he (Kelly) was very sorry".³⁷ The lie is Kelly not admitting Kennedy's surrender. There are no incongruities in Leo's description of the events; it is consistent with all known facts. Further, it confirms that Kennedy did not reload when pursued; he had no time and no extra bullets.

Ned Kelly's claim of self-defence at Stringybark Creek

Bill claims that "Gaunson worked hard to defend Ned's murder charge on the grounds of self-defence" (19), referencing Alex Castles' *Ned Kelly's Last Days*. This is not correct: what Castles wrote is that when Gaunson took over from Zincke as Kelly's solicitor at the Beechworth committal hearing he met with Kelly and it seemed "he was quite prepared to acknowledge his guilt in the Stringybark deaths, and he repeated what he had told Zincke in an interview earlier that week: that he was willing to face up to 'all that he had done'. He argued that he had been entitled to attack the three police officers for what he claimed were 'outrages' that had been committed against himself and his family".³⁸ Gaunson did not argue a self-defence case at Beechworth, nor at the Melbourne trial. The notion of self-defence as 'shoot first' comes only from Kelly's ramblings in the Jerilderie letter.

Were there politics behind the Kelly hunt?

According to Bill, "The Fitzpatrick incident ... is said to be the reason for the Kelly outbreak; although it [the outbreak] could be seen as a much wider community uprising against the blatant political control of the squatters" (63). It is true that the Royal Commission's *Second Progress Report* stated that the Fitzpatrick incident seemed to have precipitated the outbreak,³⁹ but ignored by many is the context for that: "the abolition of the Glenmore station, the reduction of the numerical strength of the force in the district, and the substitution of inexperienced and inferior constables for those more competent, necessarily weakened that effective and complete police surveillance without which the criminal classes in all countries become more and more restive and defiant of the authorities." It is solely about what were designated "the criminal classes", not the selector or simply poor classes. There was no "wider community uprising". Land reform and ANA meetings yes; 'uprising' nowhere. The underpinning reason for the Kelly outbreak seems to be the breaking up of the Baumgarten horse stealing ring with the police slowly honing in on its ringleader, Ned Kelly, and associates.⁴⁰

On one element of the prosecution of the Kellys, Bill says that "the arrest and gaoling of Mrs Kelly for 3 years was a gross injustice and meant as an example not to challenge authorities" (34). Indeed, magistrate Alfred Wyatt later opined that her sentence was "very severe" (RC, Q.2275), but it was not as harsh as the 6 years her accomplices Skillion and Williamson received. Even CCP Standish described Williamson's sentence as "very severe" (RC, Q.6). Bill's view here is correct: it was done to make an example of them. In sentencing, Barry J. said, "I hope these sentences will lead to the disbanding of the gang of lawless persons, who have for years banded themselves together in that neighbourhood against the police".⁴¹ The result, however, seems to have made matters worse.

Bill also suggests "that there was probably a political motive for the two search parties for the Kelly brothers rather than a simple investigation of a scuffle" (34), and claims that "The police were being led by egocentric master planners to make it look like they were handling deteriorating confidence in the British Imperial authority" (254). First, it just won't do to call the fracas and revolver wounding of Fitzpatrick at Mrs Kelly's house a scuffle. Ned Kelly fired at a uniformed trooper in the course of

³⁷ *Argus*, 12 December 1878, 6.

³⁸ Alex Castles, *Ned Kelly's Last Days* (Allan & Unwin, 2005), 152.

³⁹ Royal Commission, *Second Progress Report* (1881), ix.

⁴⁰ John McQuilton, *The Kelly Outbreak* (MUP, 1979), 84-5.

⁴¹ *O&M*, 15 October 1878, 3.

his duty. By any account he needed to be brought to account. Second, the claim of deteriorating confidence in Imperial authority needs documented evidence to support it, but there seems to be nothing in the police files, or parliamentary correspondence, or directives, or newspapers, to do so.

Bill quotes journalist Steve Hodder as writing “In essence, the unrest in northern Victoria at the time of the Kelly outbreak was due in part to centuries old hostilities between the English authorities and Irish peasants. The extent of ill-feeling between the English ruling class and the Irish poor is revealed with a quick history tour of Ireland going back almost a thousand years” (23). This is both wrong and irrelevant. There was no significant English-Irish hostility in Victoria regardless of religious rivalries. As Morrissey showed, the two denominations often helped each other build churches in their new land and participate in joint community activities. As I noted in my Republic Myth book in a lengthy review of a cluster of claims built by some around Kelly’s parents’ Irish background, no-one in Kelly country interviewed by Brian Cookson in 1910-11 mentioned Irishness or Catholicism as a factor in relation to the Kelly saga, nor were these raised as factors by the persecution-obsessed J.J. Kenneally.

Bill also quotes Ambrose Pratt’s novel *Dan Kelly Outlaw*, that “Most of [the Irish then in Victoria] considered it a mere venial sin to ‘pot’ at a landlord ...; few indeed that had not been concerned as actors or sympathizers in the agrarian outrages of the period” (92). Pratt might have been inspired by the 1881 *Second Progress Report* which said “John Kelly [Ned’s father] ... was a convict, having been transported from Tipperary, Ireland, to Tasmania, in 1841, for an agrarian outrage, stated to have been shooting at a landlord with intent to murder”.⁴² Yet we know now that Red Kelly was transported for stealing pigs from another poor farmer and had lagged on an accomplice who had fired at police; but he doubtless connived at this tale which was better for his survival in prison than stock thief and police informer. As with his son Ned later, there was not an ounce of politics in him.⁴³

During the June 1880 Glenrowan Inn siege at least four sympathisers were stuck overnight with about 30 adults, all facing death by accidental shooting, and uttered not one word about politics or a republic. It is worth noting in passing that the set of seven *Glenrowan* books by Edna Griffiths-Cargill who, as a child knew Jim Kelly well as their old neighbour and from whose volumes Bill has quoted a number of stories, wrote of her childhood that “We lived among Felons you might say; these were the Lost Children of Victoria” (67). Nowhere in these volumes’ hundreds of pages of Glenrowan local and Kelly-linked history is there any mention of Ned or the Kellys having any reflections on politics.

Misrepresenting the police

Bill states that “Mostly the police were of Irish nationality and were chosen because of their opposing religion to their Irish cousins and they were also considered traitors to their class” (67). By whom, one wonders? “By the small settlers”, apparently (101). But this won’t do at all. It implies an active Irish Protestant bias in police recruitment for which, unsurprisingly, there is no evidence at all.

One could equally say that as colonial police were in short supply, a man with experience, or even basic training in the Royal Irish Constabulary or other police force, was well placed to secure police employment in the colonies. On the composition of the police, Brett Wright wrote that “The *Census of Victoria, 1871* recorded that 45 per cent of Victoria’s population was native to Victoria, yet, according to Robert Haldane, there were just ‘thirty native-born constables in a force of 1060’ in 1874. Irish-born men, who comprised less than 14 per cent of the Victorian population in 1871,

⁴² Royal Commission, *Second Progress Report* (1881), vii.

⁴³ Kelly clan Descendant Anthony Griffiths quoted in Leo Kennedy, *Black Snake* (2019), 241, re Ned Kelly “was a horse thief, and not a very good one: ‘He did not have a political bone in his body’”.

made up an astonishing 82 per cent of the force's numbers in 1874".⁴⁴ In the case of the fatal Stringybark Creek expedition, the police party were a mixture of Protestant and Catholic, led by a Catholic (Kennedy). The thought that it was a Protestant shooting party out on a Catholic hunt won't hold water. One might think from reading Bill that police were widely hated by ordinary folk in those days, but it took only minutes to search Helen Doxford Harris's historical index of police and police stations for the word "petition" to find over a dozen instances of rural citizens petitioning for the establishment of police stations and the retention of police who had been moved or dismissed.⁴⁵

Bill is unfairly scathing towards the police. In relation to Glenrowan he writes that "The police had set fire to the hotel knowing that a wounded man was still inside the Inn. The police dragged him out; it was Martin Cherry" (276). This is not correct. At the enquiry into Cherry's death Dr Nicholson testified that Cherry died of a bullet wound on the lower and left side of the belly; "The body was strong and well nourished, and there were no other marks of violence." Constable Bracken testified that Cherry "was taken out of the hut at the back of the hotel [i.e., an outbuilding]. The fire had not reached that place. Deceased was not affected by the fire. He died shortly afterwards." Inspector Sadlier who had led the attack on the Inn testified that "It was not until the captives had made their escape from the hotel that I was made aware that deceased was lying wounded in the back kitchen. I then endeavoured to avoid firing into this kitchen. In firing the main building it was arranged that deceased was to be rescued before the fire could reach him. I rushed up to the kitchen myself first. Saw Dixon and others lift out the body of deceased, who was then alive. The hut he was taken from still stands unburnt".⁴⁶ The police did not set fire to the outbuilding where the wounded Cherry lay.

In summary, the police were not eligible for any reward for capturing the Kelly brothers as a result of the Fitzpatrick incident and before the passing of the *Felons Apprehension Act* after the Stringybark Creek murders. The police have been unfairly and falsely portrayed as incompetent villains by the vast majority of Kelly authors from Kenneally 1929 onwards. Not until Ian MacFarlane's 2012 *The Kelly Gang Unmasked* was there any well-argued counterbalance to some 80 years of nonsense.

Kelly sympathiser numbers

Bill disputes two comments in my Republic Myth book: first, that I said that the Kelly gang were assisted by a considerable number of sympathiser families mostly related by marriage, saying that "only five names were related by marriage: Quinn, Lloyd, Skillion, Ryan, and Kelly"; and second, that my reference to the 23 sympathisers arrested and remanded in January 1879, is incorrect as "official records show that 169 individuals were arrested" (250). Yet even among the 23 arrested, J. Hart and R. Miller are designated as Kelly relatives in McQuilton's table of those remanded; add William Tanner (married to a Lloyd), and the attempted rebuttal is simply a furphy. The comment that the gang were assisted by mostly related sympathisers comes from then Senior Constable John Kelly's recollection that the police had compiled "a list... of nearly one hundred families who would render every aid possible to the outlaws, most of these were connected with the bushrangers by ties of blood or marriage, and their residences were distributed over what was called the 'Kelly' country in a manner to afford the bushrangers the utmost possibility of succor and assistance".⁴⁷

Bill derived his tally of 169 arrested sympathisers from Tom Newth's *That's what Grandpa said*. There are 122 sympathiser names in Newth's book, plus some further names drawn from Ian

⁴⁴ Brett Wright, 'In Pursuit of the Kelly Reward: an examination of applicants to join the hunt for the Kelly gang in 1879', *Provenance: The Journal of Public Record Office Victoria* (Issue 10, 2011),

<https://prov.vic.gov.au/explore-collection/provenance-journal/provenance-2011/pursuit-kelly-reward>

⁴⁵ <https://helendoxfordharris.com.au/victoria-police/>

⁴⁶ *South Australian Register*, 10 July 1880, 2, <https://trove.nla.gov.au/newspaper/article/43152733#>

⁴⁷ Ex-Sgt John Kelly, in Thomas McNyre's *True Narrative of the Kelly Gang* (PDF, VMP), 89.

MacFarlane's *Kelly Gang Unmasked*, to give Bill's total of 169 sympathiser names. He says that "Newth noted that around the 1880s, many of these people were locked up at Beechworth jail, but had to be released because they were detained without a warrant" (259). This is extraordinary bungling by Newth. Twenty-three sympathisers were arrested under the *Felons Apprehension Act* between January and March 1879 and detained for varying periods between one day (W. and J. Stewart) and three months (about half of them). The list and details are in John McQuilton's *Kelly Outbreak*, p. 114. Incidentally, in the process of checking McQuilton I see he claimed that, "The *Ovens and Murray Advertiser* quite bluntly put the number of men ready to support the Kellys [in Decembers 1878] at 800",⁴⁸ a blunder in which he misread 300, the number printed in the newspaper, as 800. I first noticed this blunder in Peter FitzSimon's *Ned Kelly* but can now source it to Kelly enthusiast McQuilton. That 300 men is the largest number of sympathisers claimed by any contemporary source during the outbreak.

Bill's claim that 169 sympathisers were arrested at some point is simply wrong. It comes from his equating the 84 names blacklisted from taking up selections with his combination list of 169 sympathisers and claiming all of the 169 as "an arrested blacklisted Kelly sympathiser" (257). As I noted in my Republic Myth book, Inspector Nicolson provided the Secretary with a blacklist of 84 "suspected persons and criminals in possession of holdings of lands in the North-Eastern [police] district.... Few are mentioned but those residing in secluded or mountainous parts, and where there are great facilities for carrying on horse and cattle stealing and other offences without much risk of observation. Besides the men referred to, there are many young men, members of the same families and others, who are coming to the age at which they may select land and whom it would be most desirable to prevent from selecting in such places." Bill regards the blacklisted group as Kelly sympathisers. That may be the case for a few but they were not blacklisted for that reason, but to break up stock theft. The 23 remanded persons were known Kelly sympathisers; the land selection black list was not connected with those arrests.

Bill further claims without evidence that only some 10% of selectors in the north east were real selectors, and that 90% of selectors were actually squatter's 'dummies' (255). He has marked on a map the locations of blacklisted persons who are scattered from Albury to Mansfield (257), to hold that "these were not just a single group or mob around the Greta area as Dawson tries to portray as being the central problem". For Bill, the map indicates a "widespread state of disaffection" (256).

First, nowhere did I say or imply that the blacklisted persons were a single group around Greta area. Quite the contrary; I quoted the Secretary of Lands request for a list of selectors suspected by the police of sympathising with or aiding the outlaws in "certain mountainous districts in the North Eastern portion of the colony".⁴⁹ One can nevertheless see, by overlaying Doug Morrissey's stock theft route map at the front of his *Ned Kelly: A Lawless Life* onto Bill's map, a close correlation between the large number of blacklisted persons around the Fifteen Mile Creek in the Greta and Lurg area and one of the key stock theft routes. One can equally see from Morrissey's map, consistent with Bill's observation, that "there are very few blacklisted names north of Wangaratta and in the Beechworth area" (258). These areas were not on stock theft routes but were bypassed by the organised stock thieves, so Bill is not getting the victory he seems to be claiming here.

Demographic calisthenics

Bill proposes that a realistic estimate of the number of sympathisers can be derived from population data. In summary, he says that average families then comprised 7 or 8 individuals; assuming half of

⁴⁸ *Ovens and Murray Advertiser*, 14 Dec 1878, 4.

⁴⁹ S. Dawson, *Ned Kelly and the myth of a republic of north-eastern Victoria*, 23.

them were of learning and working age, each old enough to understand their social standing, it would follow that of his claimed 169 blacklisted persons, on average each had four members who understood what it meant to be blacklisted. So 4×169 could mean 676 individuals, each of these with neighbours and friends who Bill suggests would also share their sentiments, to tally more than three times the 676 with a similar sympathetic outlook. "By that we could estimate at least 2,000 people having sympathetic support for the Kellys' predicament over an area of about 8,000 square kilometres or 4 people to every square kilometre from south of Mansfield to the NSW border" (259).

This averaging doesn't work. First, there were 84 blacklisted persons, not 169. Ignoring that for now and working with Bill's 169 sympathisers for the sake of argument, the argument secondly fails because no-one knew about the May 1879 blacklist even when Kelly associate William Tanner's application for a selection was refused on recommendation of the police in June 1879.⁵⁰ There was nothing more than one individual refusal known; nothing about a blacklist. Even in October 1880 when Kelly's solicitor Gaunson enquired of the Lands Department why Maggie Skillion was refused permission to take out a mortgage on her mother's farm,⁵¹ the fact of a blacklist was still unknown.

Third, Bill's own map of the north east parishes (257) that identifies all known sympathisers shows that the vast majority of parishes had not even one known sympathiser in them. For an accurate estimate of the number of sympathisers the best source is the police, who were actively interested in them. As I noted in my Republic Myth book, there were about some 100 heads of families identified by the police; and we have the *O&M* estimate of 300 individuals all up in December 1878. If anyone wants to claim higher numbers of sympathisers they need to demonstrate a basis for it.

Bill's proposal seems to be that sympathy might reflect a common grievance or empathy for the Kelly' situation as downtrodden selectors hounded by the police; but that in turn requires evidence that the police were focusing on poor selectors as distinct from focusing on those who were criminals or had known criminal associations. There is nothing in the everyday newspapers of the day to support the idea that the police were in some way agents of the squatters or sought to support squatter's class interests against selectors generally.

To return to the black list, no-one would know they were on the black list unless and until they applied for a selection in the north-east police district; and there were no restrictions on them being able to select anywhere else in Victoria. Bill suggests that "Many of the neighbours were not blacklisted as they worked as labourers for their nearby squatters" (259), but this avoids the point that the blacklist was determined by police submission of names of those they saw as "suspected persons and criminals in possession of holdings of lands in the North-Eastern [police] district", regardless whether these might be dummy selectors or not. It is bending history to suggest that "If too many people were blacklisted in one area, arrested and locked up in their district this would have caused a more serious uncontrollable uprising" (259). This again wrongly equates the 23 arrests and remands of February 1879 with names on the blacklist; but as we see from the blacklist at VPRS 4965, Con 2, Unit 4, Item 177, there is almost no overlap of names between them and the remanded persons. One could argue that the blacklisting was unfair; but one cannot equate the blacklist with Kelly sympathisers. The whole basis of the 'demographic sympathiser' hypothesis is factually wrong.

Bill next introduces the idea of '6 degrees of separation' (that everyone on earth is theoretically separated from everyone else by only six people) into his sympathiser calculations: "Multiplying friends and associates at 5 degrees of separation there could have been 9,000 people in north-east Victoria alone 'sympathetic to the Kelly cause'; it could be 20,000 around Victoria" (265). Why not go

⁵⁰ Tanner's land refused, VPRS 4965, P2, Unit 4, Item 196, 16 June 1879.

⁵¹ Peter FitzSimon's summary in *Ned Kelly* (2013), 635, from *Argus*, 16 October 1880, 8.

the full 6 degrees and multiply the 9,000 to get 54,000 sympathisers across Victoria in a population that was then approaching 850,000?⁵² Clearly because this theory needs the sixth degree treatment!

What was the “Kelly cause”? To get his mother, together with Bill Skillion and Bill Williamson, out of gaol to which they had been sentenced for aiding and abetting the attempted murder of a police constable; a crime that it is clear that the three had jointly committed (unless the third man was actually Byrne and not William Skillion, as was suggested in a newspaper of the day).⁵³ Bill suggests that the Jerilderie letter wording that “It will pay Government to give those people who are suffering innocence, justice and liberty” should be applied to all the 169 sympathisers he wrongly claimed were blacklisted and gaoled (264), but this misreads the JL’s wording to apply it, as did Ian Jones, to more than Mrs Kelly, Skillion and Williamson. The parallel words in the Cameron letter written a month before the 23 sympathiser remands took place are his “warning that if my people do not get justice and those innocent released from prison”. In both letters these relate to previous wordings speaking of “the conviction of my mother and those innocent men” (CL) and “lagging my mother & infant and those innocent men” (JL). It is wishful thinking to attempt to apply that any wider.

Bill also hopes to establish some demographic basis to apply the *O&M*’s April 1880 caustic mocking that “9 out of 10 bush hands and swagmen” applauded the Kelly gang, to the Parish of Moyhu. He says that 97 of the 100 names on the Moyhu Parish map were small landowners, then suggests with no evidence that half of these were squatters’ dummies; and then claims of the 48 “true selectors”, 18 were blacklisted. This is simply wrong: only four Moyhu names appear on the blacklist.⁵⁴ Once again Bill is claiming all identified sympathisers to have been blacklisted. It is just factually wrong. He next moves to the 1877 Parish maps of Lurg and Greta, noting “49 listed sympathisers out of 61 names on the maps, or 80%. This is close enough to the *Bulletin*’s 9 out of 10 men in the disaffected district” (264). This misreads the *Bulletin*’s mocking 1900 article with its ‘9 out of 10’ figure obviously drawn from the *O&M*’s ‘bush hands and swaggies’ figure to apply to the north-east population at large. That can’t be done; first, because it was simply a publisher’s joke; and second, because as Bill’s own map on p. 257 shows, the concentration of sympathisers there follows the Fifteen Mile Creek stock theft route identified in Doug Morrissey’s map and is totally untypical of N.E. Victoria. So while Bill’s demographic section attacking my Republic Myth book is full of figures and maps and what-ifs and therefore looks impressive, it is entirely hypothetical and at odds with the facts.

Were there any significant colonial republican sentiments in North-East Victoria?

Bill claims with no source references that “It has often been contended that among the many poorer family communities in NE Victoria, the majority are said to have Republican sentiments” (20). He claims a link existed between the pro-Federation Gorman family and their Kelly neighbours at Beveridge in which the Gorman’s political leanings might have influenced Ned. He says for example that “The Gormans [were] always fighting for better land deals than the Kelly ‘uprising’ later represented to its widely spread sympathisers in North Eastern Victoria” (90). There is no evidence offered that the Kellys or the Kelly gang ever said anything about land deals. Bill relates that the Gormans were Irish immigrants with Republican sentiments and their children went to school with the Kelly and Quinn children for six months after the Beveridge Catholic school opened in mid-1863. Gorman senior spoilt a salute to Prince Alfred’s October 1867 Royal Visit by burning out a royalist bonfire early, before the young Duke would be sailing past to see it. Bill claims that “this ties in with

⁵² *Argus*, 5 December 1881, <https://trove.nla.gov.au/newspaper/article/11525770#>

⁵³ See S. Dawson, ‘Redeeming Fitzpatrick: Ned Kelly and the Fitzpatrick Incident’, *Eras Journal*, 2015.

⁵⁴ VPRS 4965, Con 2, Unit 4, Item 177.

Ned Kelly's support for republican causes" (52), although it is hard to see how Gorman's sabotage that Ned probably never heard about, as his family had already moved north to Avenel around mid-1867, ties in with an alleged republican cause that Ned never mentioned. In any case the Duke's visit was massively popular with some 10,000 people going out on steamers to escort the Duke's ship in to Melbourne, and at night "There were bonfires at Hawthorn, Kew, Woodend, and Tannagulla, and on the principal hill tops for many miles round Melbourne. One of these bonfires contained 500 tons of wood, and was visible for thirty miles round".⁵⁵ No-one would notice the absence of one bonfire.

There are several problematic statements about social relations. Bill says that "in those days women on their own could not acquire (own) land in their own right, and that this was part of the class structure of colonial Victorian British rule" (37), and "women could not even own land titles in those days" (67). Against this, Ellen Kelly acquired her selection on the Eleven Mile with the right to buy it in time if the selection conditions were met. Bill's own map shows that Bridie Kelly held an allotment (lot 58) "in her name" (69), and his map show a second allotment 88A also in her name (80). Bill later admitted that some women could acquire land despite the patriarchy: "the whole system of land tenure depended upon male applicants as few women could take up land in their own right (74).

Bill claims that "During the 1870s Ned Kelly determined to draw a line in the sand against those social prejudices dished out to his class" (18). But the social prejudices of the English class system were not as rigid in the new country. Bill noted that the son of Chief Justice William A'Beckett married the daughter of a convict, and that "such a social divide could not have been imagined in England" (85). He insists that Kelly "was made an example of to anyone wishing to go against the controlling elite" (11) and that "Both the Cameron and Jerilderie letters were an explanation of why Ned and his family rebelled against an unfair political system" (22). Against this, first, there is no political content at all in the Cameron letter. Not one Kelly author, not even Jones or McQuilton who were adamant that the Jerilderie letter was some kind of 'manifesto', have ever claimed anything political about the Cameron letter, and Bill provides no reasons why it might indicate anything political. What we get is only Bill's opinion or interpretation of what the Cameron letter is about. At Euroa "Kelly also stated [to his prisoners] that they had written a long letter to the Legislative Council, giving the whole of the circumstances that had led them into their present career. Mrs. Fitzgerald was induced to obtain the postage stamps to enable them to forward this precious document, of which more will probably be heard. She says there were several sheets of paper covered with beautiful writing, and it was duly posted".⁵⁶ And not a word of politics to his prisoners.

Second, as I discussed in detail in my Republic Myth book, the Jerilderie letter is just a longer and more ranting version of the Cameron letter. Whole paragraphs are nearly identical. It is obvious that it was written out with the Cameron letter (of which Kelly sent at least three copies, to Cameron, Sadleir, and Standish) on the table as its template. The most likely thing that Kelly had on him when captured, described back in the day as "a pocket book, containing a number of letters, implicating persons in good positions, and the name of one Member of Parliament is mentioned",⁵⁷ was a pocket book with the original 'Cameron' letter and perhaps further copies. As I also discussed, there is nothing to support Jones' opinion that the few vague threatening statements in the Jerilderie letter, quoted by Bill (244-5), can be taken to represent a political manifesto. Bill does not put up a new case for that; he just repeats points that have already been reviewed and rejected in my book.

⁵⁵ *Illustrated Sydney News*, 16 December 1867, 1;

<https://trove.nla.gov.au/newspaper/article/63513754/5408952#>

⁵⁶ *Argus*, 12 December 1878, 6.

⁵⁷ *Evening News* (Syd.), Friday 2 July 1880, 2. For the full quote and discussion see my Republic Myth book, 2.

Because Bill wants to see the Kelly gang as some kind of political rebels, he asks “Can we imagine how many people at that time would have been reading the newspapers and gossip about the Kelly gang’s growing fame for standing up to the authorities, the arrest warrants issued being a witch hunt, a warning to anyone who had thoughts of support?” (265). Imagination is the operative word here. Not only is there nothing to support the idea of the Kelly gang “standing up to the authorities” in any sense except but not wanting to be caught for a long list of crimes that they committed before and on the run, and taunting the police at the failure to catch them, they made no political demands. And in what sense did anyone back in the day see the arrest warrants being issued as a witch hunt? Even the 23 sympathisers arrested in early 1879 were not linked by anyone to a political witch hunt.

My Republic Myth book did not deny that there may have been some disaffected Irish immigrants who brought anti-British or Republican sentiments with them. Rather, it denied that there was any north-east Victorian republican movement of any kind, and certainly not one led by Ned Kelly. There is no written evidence of any north-east republican sympathy or claim, and Bill agrees there is none (7). Rather he suggests that “Perhaps a Kelly led ‘republic’ for N.E. Victoria never reached a climax, except perhaps as a notional ideal during land reform meetings by local activists throughout Victoria in the 1880s” (249). There are two propositions here: first, that republicanism was raised by some local land reform activists in the 1880s, and second, that this happened throughout Victoria. To the first, the suggestion requires some evidence that anyone in the land reform movement mentioned republicanism as a notional ideal as distinct from separation (a breakaway state) in land reform meetings in the north-east, and second, that such mentions occurred throughout Victoria. Bill puts forward no evidence to show that either happened. Separation movements arose in the 1860s in Portland and the Riverina as Bill notes, and there was interest in a colonial Federation under the Crown after separate colonies had been established; but that is different from being a federated Australia independent of England. Against arguments from people like me who demand evidence, Bill replies that I have “little regard for century old sentiments carried on from one generation to the next. The poor end of town never had many journalists prepared to record their version of history” (59). That may be true but it does not explain why there are no diaries, journals, notebooks, letters, mentions in police files, etc., such as there are from the time of the Eureka Stockade 30 years earlier.

The other problem is that oral history is notoriously unreliable and changes with the wind. Where in the days of the Kelly gang outlawry popular sentiment was overwhelmingly against them and hoping they were caught before any further outrages were committed, by the 1930s a romantic view of the iron outlaws had begun to grow especially in the wake of Kenneally’s *Inner History*. Tall tales grew of parents and grandparents having had some past links with the gang (and especially with Ned Kelly). Farmers all over the north-east claimed that Kelly had helped build one of their barns or sheds. Joy and Prior in their 1963 *Bushrangers* wrote that when they visited Euroa in 1960, numerous residents claimed to have had a grandmother who happened to have been in Younghusbands kitchen, or a grandfather who happened to be in the bank, the day the Kellys came to town and passed by them “as close as I am to you now”. There are plenty of fourth and fifth generation descendants of people in the north east eager to claim that their ancestors were Kelly sympathisers or assisted the gang on the run.⁵⁸ It is obvious that many of these are poorly remembered leg-pulls from old folks – “Ned Kelly built that shed!” “Wow!”. Then 20 years on, “My Grandpa/Grandma said X, so it must be true”.

⁵⁸ Eugenie Navarre’s 2016 *Knight in Aussie Armour* is another book packed with creative “true” tales told by descendants who clearly relished the opportunity to be part of ‘the Kelly story’. Probably the most alarming claim is that “There were many sympathisers with armour similar to the gang’s” (6), yet no-one anywhere has any piece, in any condition, of such an easily buried relic. Tales of farm dams abound; all pre-metal detector?

Bill also wants to make much of antagonism between Protestants and Catholics, and Irish hatred for the Crown, ignoring that Ellen Kelly remarried to a Protestant, as did her daughter Annie (to the Protestant Bill Gunn), and that Ashmead's *The Thorns and the Briars* ends with noting Ellen Kelly's mantelpiece portrait loyalty to King and Queen. The whole idea of a republican Ned is a giant furphy.

Were there any Kelly links to existing political movements?

Bill presents a flow chart showing links between the Gorman family, some of whom became active in the movement for Federation, and the Kellys, suggesting that "the extent to which political activists were influenced by the rebellious actions and beliefs of Kelly sympathisers is yet another fascinating question", and that these connections "have been totally ignored by past historians" (21). In brief, on Bill's chart the Quinns, Kelly and Gormans were neighbours at Wallan East in 1848 when Red Kelly worked for David Gorman Jr. Annie, Ned and Maggie Kelly attended Beveridge Catholic school in the second half of 1863 where E. James Gorman was also a pupil. By January 1864 the Kellys were in Avenel, 75 kilometres (46 miles) north of Beveridge where Bill says Red was still working for David Gorman Jr. until his death in 1866. Bill says that Ned Kelly and E. James Gorman "are mates and grow up together"; but as no Gormans are on the Avenel school rolls at any point from 1864 through 1866 it is hard to see how this claim can be supported.

The Kellys moved further north again in mid-1877, when Ned was about 12. Meanwhile the Gormans moved up to NSW, where eventually E. J. Gorman became a foundation member of the Berrigan Federation League. A different Gorman daughter had grown up to marry Joseph Winter, the owner of the *Catholic Advocate* newspaper, whose brother Samuel Winter was a founding member of the Australian Natives Association (in 1871) and owner of the Melbourne *Herald*. What we have is two country-bred newspaper families making good, while the Kellys continued to eke out a squalid semi-criminal existence in the Eleven Mile shanty. The suggestion that E.J. Gorman was in any way significant in the movement towards Federation is undermined by Bill's own quoting of a descendant who wrote that David Gorman had overstated E.J Gorman's role and that he "was significant in the Riverina but not on the Federal stage" (22). There is nothing in the chapter that suggests that any of them gave any thought to Ned.

From the other end, there is nothing to suggest that any of the Kellys, Quinns or Lloyds were involved in any way in any local branches of the Victorian Land League, the Australian Natives Association, or any group connected in any way with a movement towards Federation. They appear to have been to varying extents busy on their selections or interfering with other selectors when not thieving or throwing their weight around with the local hoodlums known as the Greta Mob,⁵⁹ rather than having any discernible involvement in any level of regional, state or federal political discussions.

Bill nevertheless claimed that "a very large percentage of the population in North East Victoria knew of the Kelly's Irish background, their class and determination. In his time of retaliation Ned Kelly became their hero for standing up to a persistent controlling elite" (260). This flies against the almost universal condemnation of the Kelly gang after the Stringybark Creek murders including by Irish settlers (not to mention widespread public outrage that Kelly shot at and wounded Trooper Fitzpatrick in the course of his duty the previous April), as Sergeant Kennedy's wife Bridget made clear: "Many a family came out from Ireland, ours included. Plenty of families did it tough. But that did not mean they turned to stealing and robbing from their neighbours. Only a few families were bad or went bad, but none so bad as the Kellys".⁶⁰ The Euroa and Jerilderie bank robberies were not

⁵⁹ See table of sympathisers and Greta Mob members in Doug Morrissey, 'Ned Kelly's Sympathisers', *Historical Studies*, October 1978, 296.

⁶⁰ Quoted in Leo Kennedy's *Black Snake: The Real Story of Ned Kelly*.

retaliation, just fundraising for life on the run and paying off a small number of ‘sympathisers’ who sheltered them but might otherwise turn them in. It would be hard to find many who celebrated the gang’s retaliation in trying to derail a police special train and Glenrowan and kill all its occupants. Who in his day called Ned Kelly a hero? Or a figure of resistance? No source that I’ve seen says that. Such a claim as that on p. 260 demands documentation, but there is nothing to support it anywhere. This is not history being written by the victor, but history being imaginatively invented by historians.

The search for Kelly links to the Victorian Land League

Bill agrees that “archival records fail to show direct proof that a republic movement in North-Eastern Victoria had existed, but [he suggests that] perhaps there was one in the making, a movement that ignited the Victorian Land Reform League movement which over this time replaced any republic cause” (241). It seems this alleged republican movement might be based in earlier sentiments from the 1850s: “out of the resentment of Eureka Stockade came a visceral dislike for the British, and out of this resentment grew the movement represented by the ANA championing Federation” (18). He seems to be arguing that there was a flow of rebellious, although somewhat vague and indirect, anti-monarchical political sentiment stemming from the Eureka Stockade in 1854, going through the Land Reform League and into the Australian Natives Association, that eventually led to the successful push for Federation but saw the abandonment of early pro-republican sentiments along the way.

If I have understood this correctly – and it has been pieced together from different parts of the book, as his argument is not presented in a self-contained section – it requires Bill to demonstrate either a continuity of activists or a continuity of popular sentiments. He says that “Rev. J.D. Lang published a draft declaration of Independence of Victoria and had previously advocated republicanism in his lectures, in 1855. He joined the Victorian Land League on 21 May 1857” (242). Bill then suggests that “Perhaps the Victorian Land League organisation may also have considered a Separation, maybe not as a republic but a movement to self-govern rather than put up with the Squatter run government still under the British yoke. And we know in 1901 the Land League with the ANA spearheaded the federal States of Australia” (245). This should be easy to establish: either the Victorian Land League proposed some form of political separation, or it didn’t. What I did find is that in the second meeting of the VLL one speaker proposed that “If the lands were thrown open in Victoria, New South Wales, South Australia, and Western Australia, would probably follow the example, for within two years there might be a federation, and the laws which were now established in Victoria would probably be the laws of the whole Australian continent”.⁶¹ It does not sound like a call for republican separatism.

It is the proposed by Bill “that the Land League and separation movements, i.e. ‘breakaway republican sentiments’, were all one and the same” (237). The claim is repeated a few pages later: “Many Land League members sympathised with the resilient Kelly gang uprising seen simply as scapegoats for similarly representing their rights, a challenge to the autocratic establishment for having land issues sewn up in their favour. It is proposed that the Land League and separation movements (i.e., breakaway republican movements), were one and the same” (240). This is clearly problematic, as the Land League movement was not a separation movement, and the Portland and Riverina separation movements had nothing to do with republican sentiments. They were loyalist colonial separation movements, as discussed in my Republic Myth book. The only way I can make sense of this is if the argument is that there were some people in the Victorian Land League movement who had republican sympathies, and Bill does show that this is likely to be the case with a handful of its Irish immigrant supporters. But J.D. Lang, who he praises as an early influence, was a Scottish Protestant and does not appear to have made an anti-monarchical call for land reform. A

⁶¹ Age, 20 January 1857, 5, <https://trove.nla.gov.au/newspaper/article/154823924#>

further problem is the claim that anyone involved in either the Victorian Land League or the two earlier separation movements expressed any sympathy for the Kelly gang during the Kelly outbreak. That would have to be demonstrated with some evidence, not just claimed as a possible sympathy.

Further, it is not clear how these early movements and their claimed sympathies for a disadvantaged class, symbolised by Kelly's later struggle with reality, map onto social and economic changes slowly introduced by successive changes to the Victorian Land Acts. The first couple of Land Acts generally seem to have done little, but one examination discussed the impact of the *Land Act 1869* in opening up land for selection and curtailing the power of squatters to block it, notwithstanding the issue that selection required fencing, clearing and cultivation as its measure of success regardless of the quality of the soil in the selection. It notes that the *Land Act 1878* "eased some of the regulatory conditions associated with Selection and offered the selectors more choice in their land use options".⁶² This is not to deny that serious tensions between squatters and selectors existed over time before the later Land Acts were passed,⁶³ but I continue to side with Doug Morrissey, that by 1878 – the start of the so-called Kelly outbreak – in the contest between squatters and selectors, the selectors had won.

Bill invents the possibility of a "Land League of North-Eastern Victoria" to separate NE Victoria from Victoria in 1880 (246). This is clearly marked as a hypothetical idea, but there is no historical evidence of any such a proposal. As there was nothing to prevent anyone holding a public meeting along these lines had they wished to do so, I think it has to be dismissed from consideration as speculative historical fiction. The key problem continues to remain that there is no evidence to connect any political sentiments or activity with any of Ned Kelly's sympathisers.

The closest we get is Tom Lloyd Senior's comment to Constable Robert Graham, who with three troopers established a police base in the Greta hotel immediately after the Glenrowan siege, which he relayed to Superintendent Sadleir, that "'the Kellys wanted ground'.... Now [commented Ian Jones], the sympathisers wanted land, and, if they could be guaranteed access to that land, they would get rid of the few trouble-makers and hotheads remaining in the district".⁶⁴ There is some generous interpretation by Jones in using the word "sympathisers" in this. What he actually quoted from Sadleir's *Recollections* was, "One of the Kelly relatives, the prospective leader of [a] new gang [who is not named], sought an interview with me when matters looked most threatening. My interviewer was pretty frank, not to say impudent, at first. When he was reminded of what happened to the Kelly gang and that, though a constable might be shot, the police went on for ever, he became more reasonable, and asked only that those of the Kelly circle who had taken up land should not be dispossessed. I was able to promise that no one who continued to obey the law would be interfered with, but that no further selections would be allowed to doubtful characters".

There is a great difference between what Ian Jones wrote and what Sadleir said. Sadleir was not interested in a "class" of Kelly sympathisers; indeed, there is no evidence for such a "class" outside of the 300 or so noted by the *O&M* in December 1978. He simply reinforced that in practice the blacklist (as we now know it; but which Sadleir did not name or mention) would continue to apply to 'doubtful characters'. Sadleir's other comment was that those who obeyed the law would be left alone. This is quite different from Jones' conclusion that "With the root cause of the rebellion uncovered, it seemed only a matter of time before things could be placed on a stable basis in the

⁶² Thesis, University of New England; author uncertain but possibly A.M. Cook. Chapter 5, 'The Selection Period (1860s – 1880s)', <https://rune.une.edu.au/web/bitstream/1959.11/6541/2/open/SOURCE05.pdf>, [110](#).

⁶³ There is a short section about this tension in the Wimmera district in the *Horsham Heritage Study*, Vol.3, Stage-2.1 (2014) chapter 5, 'Settling the land'.

⁶⁴ Ian Jones, 'A New View of Ned Kelly', in C. Cave, ed., *Ned Kelly: Man & Myth* (Cassell, 1968), 178.

Kelly country". Jones imagined a republican Kelly and sympathiser movement, linked it with land selection and blacklisting, and created a fantasy land of political rebelliousness that never existed.

From a different perspective, Bill says that "The main downfall for the sympathisers was a lack of any proper political planning, but a plan did evolve much later that led the path towards land reform through a government political opposition, with support from the ANA, a movement that finally led to Federation in 1901" (90). This again implies that there was some kind of cohesive body of Kelly sympathisers with a common cause, but it is hard to see where this might lie given that the blacklist was secret. Only applicants for a selection who had been refused would know of the refusal; they would know it had been refused on the advice of the police; but they would know nothing of who else might have been blacklisted. There also seems to be inconsistency in suggesting that later plans for land reform, i.e., after the destruction of the Kelly gang, had any links to the blacklisted selectors who also happened to have been Kelly sympathisers. As discussed previously, persons were not put on a blacklist because they were Kelly sympathisers but because they were suspected criminals. All up, it is hard to see how the large claim of Kelly links to the Victorian Land League can be sustained.

James Wallace, Hurdle Hut school teacher, Kelly sympathiser, and maybe JL author?

There is nothing controversial in Bill's observing, as have many others, that James Wallace was a Kelly sympathiser. There was a hut some two and a half miles behind Wallace's school house where the Kelly gang sheltered for some time while on the run – according to Bill, from February 1879 to June 1880 – with four bunk beds and a waterhole that made living there possible (217, 218, 223). It seems clear to many (including to Detective Ward back in the day) that Wallace did harbour the gang at some point. Where Bill goes further is in suggesting that Wallace may have authored the Jerilderie letter and that he may have influenced the gang towards some form of political stance. Bill is not the only author to suggest Wallace's involvement in the Jerilderie letter. David Dufty in his 2022 *'Nabbing Ned Kelly'* similarly suggested that "the content was Ned's, but as the confidante and resident scholar, Wallace probably influenced it" [square brackets for Dufty's book, 356]. There are two linked claims to discuss: first, that Wallace was politically radical, and second, that he was the real author of the infamous Jerilderie letter.

James Wallace and politics

Bill says "Wallace and local farmers around the wider Oxley Plains district got themselves involved in politics as they saw an opportunity to increase pressure on the authorities by giving voice to a resistance movement" (237). This begs the question, resistance to what? A campaign for land reform is not a resistance movement. So what did Wallace do? We learn from Dufty that Wallace was an activist for selectors' rights [263], and that from 1877 onwards Wallace was an active member of the Upper Murray Free Selectors Association [263, n. 7]. It is hard to trace what this was, but it seems to have been one of many similar groups that sought reform of the Land Act against squatter monopoly of land and water rights over selectors.⁶⁵ Wallace was a teacher, not a selector; so what was he doing there in 1877, before the Kelly outbreak? Whatever it was, it doesn't seem connected with the Byrne or the Kellys. He doesn't seem to have surfaced in the other important political reform groups identified by Bill - the Victorian Land League, ANA, or Federation movement, all three of which were publicly acceptable causes for citizens to associate themselves with. Bill notes that in 1882 Wallace

⁶⁵ See e.g., 1876, Musclebrook And Upper Hunter Free Selectors' Association, <https://trove.nla.gov.au/newspaper/article/18803394>.

wrote a miscellany column in the *Kerang Times* under the pen name 'Olla Podrida' [a Spanish pork and bean stew] (247), but that is two years too late to be relevant to the Kelly outbreak.

We know that Wallace gave some material assistance to the gang. Detective Ward learned that Wallace was collecting mould boards [Dufty, 265] although Wallace may not have known what they were wanted for; and Education Department inspector Tom Bolam found evidence of Wallace and his wife helping the gang elude the police [Dufty, 276; RC Q.15056-7]. But it is one thing to say that Wallace had sympathy for his old school friend Byrne; it is another to suggest that he took Byrne's side against the authorities for political reasons after the gang were outlawed. Yet this is what underpins Bill's belief of Wallace's involvement: "It is more likely that Wallace supported a radical change in government rather than putting his life on the line to support an old school mate" (243). Again, it needs to be demonstrated that Wallace had a radical political agenda, but his involvement in the Free Selectors Association does not indicate radicalism. For some seven months, from August 1879 to March 1880, Wallace was paid for information about the gang by the police (RC Q.14761). There was an element of risk in this: Bill correctly describes Wallace as a double agent between the gang and the police (218),⁶⁶ even if he was not providing any useful information to the police. After all, a similar situation got Aaron Sherritt shot by Byrne. In this provision of information Wallace obviously said nothing to indicate anything of any political motives by the gang.

Neither Bill nor David Dufty gave anything more than circumstantial speculation that Wallace had a political motive for sympathy with the gang or did anything of a proto-republican political bent at any point in 1878 through to June 1880. No one has been able to identify any political sentiments expressed by Ned or any of the gang other than some vague lines from the Jerilderie letter that Ian Jones desperately but unconvincingly tried to interpret as political, all of which I reviewed and rejected in my Republic Myth book. There was not a political word spoken by any of the gang to their numerous captives at Euroa, Jerilderie, Glenrowan, or anywhere else, including by Kelly after his capture. We will have to wait for Peter Newman's *James Wallace: The Kelly Gang Sympathiser* (forthcoming) to see if he can document any facts of political activism from which some proto-republican sentiments by Wallace might be claimed, as distinct from land reform sentiments and unspecified activism, which seems to be all that has been evidenced by others so far. Ned Kelly did not say anything coherent about land reform in his letters, so if Wallace is to be claimed to have been involved in writing them it is curious that his only clear political interest is absent from its text.

The theory that Wallace may have written or help draft the Jerilderie letter

Bill says that "We know James Wallace tried to help Byrne, suggesting that both Wallace and Byrne were instrumental in writing the Jerilderie letter" (238); "Kelly and Byrne wrote powerful letters that were more than likely drafted and edited by James Wallace who had witnessed how his school students and their families were living in hard times, some in squalor, but they struggled to survive at their patch, all at the hand of an unfair land tenure system of the time" (247). In couple of places Bill has printed his illustration 'Knights of the Republic', an imaginative drawing which he says "might well be Wallace and Byrne preparing a letter of protest" (239). Coming from a different angle but also based on Wallace's known support for the gang (or certainly for Byrne), David Dufty said that "Wallace had the motive, the means and the opportunity" [355]. Let us review these propositions.

Bill notes that "Wallace wrote a series of letters to local papers [or at least the *Wangaratta Despatch*] using pseudonyms. It included [one leading article and] a series of romance called 'Christmas in Kellyland'" (239, citing RC Q.14744). Unfortunately no copies of the paper have survived, so we have no idea what these were about. Interestingly, nothing about any political views

⁶⁶ For a good summary, cf. Doug Morrissey, *Selectors, Squatters and Stock Thieves* (Connor, 2018), 68-70.

was asked of Wallace by the Commission. It seems that Bill's question, "Was Wallace supportive of a notional republic movement for North-Eastern Victoria? He didn't have to support the gang unless there was a much bigger aim for his class" (240), leads nowhere. The question is asked again in different words a few pages later: "Was James Wallace a guiding voice for change that the rebellious Jerilderie letter tried to present to the authorities? Ned Kelly advised them to listen to the people and understand deep seated grievances concerning their personal issues" (247). This is a wild exaggeration of the Jerilderie letter's content that falls apart, as did Jones' similar suggestions, on analysis of the text.⁶⁷

The only basis for the claim of Wallace's involvement in drafting and editing the Jerilderie letter (247) is speculation based on Byrne and Wallace having been at school together, on his known harbouring of the gang, and on Bill's claim that "Wallace is recorded as admitting to helping Byrne 'knock his writings into shape'" (243); but this is not what Wallace said. The Royal Commission asked, "Q: was it not currently reported that Joe Byrne was the scribe of the gang?—Yes. Q: When you offered your services, was it one of your designs to volunteer to reduce this collection of writing of Byrne's into shape for him—was that not the arrangement with myself?—That I should endeavor to get hold of this diary. Q: And get the confidence of the gang through that?—Yes, that was the point I went into the bush for, to receive this diary, and I missed them some way or other. Q: Did you ever get the diary?—No; I left the district, and I would not know whom to apply to" (14812-15). All we can learn from this is that Wallace wished to get hold of Byrne's diary with some intention of knocking his writings into shape, but it never happened. If Wallace was aiding Byrne or the gang with his writings there is nothing whatsoever to show it. And indeed, if it was true, then in Bill's words, "Wallace seems to have covered his tracks well" (239).

In *Nabbing Ned Kelly* David Dufty took a different approach to one part of the authorship question based on handwriting analysis and suggested, perhaps cheekily, that perhaps Kelly and Byrne wrote nothing at all [360]. Yet while a 2014 graphological comparison between Byrne's letters and the Jerilderie letter was inconclusive as to proving Byrne's writing,⁶⁸ it doesn't rule it out. Dufty argues in support of Wallace's possible authorship rather than Byrne's, that Byrne's two page letter to Aaron Sherritt "has spelling and grammar mistakes that aren't replicated in the Jerilderie letter" and therefore counts against Byrne's writing of the JL [354]. Against this, the examples he gives are not fatal to disproving Byrne's authorship. As was noted in the graphological analysis, the Sherritt letter is too short to conclude anything substantial in the way of comparison. The misspelling of one instance of *traitor* as *treater* in the Sherritt letter is compatible with a semi-literate irregularity of spelling, as is *live for life*. The claim that Byrne wrote *has* instead of *have* in the Sherritt letter shows little, as there are 14 instances of *has* in the JL, together with some 30 instances of *have*.

Dufty wrote that "the penmanship of the JL is neat and clear. Whoever wrote it was doing their best cursive and concentrating hard" [356]. His examples of differences between some letter tail shapes in Byrne's letter to Sherritt and the Jerilderie letter indicate only that there are some similarities in the sort of cursive writing that was commonly taught at that time. Dufty says that there is an absence of lopsided figure 8's in the JL [357]; that there are other lettering discrepancies between the two letters [358], and that a reconstruction of a sentence from the JL using sample of Wallace's handwriting from others Wallace letters shows "they are not identical" [358]. That fact that Wallace claimed he could imitate Byrne's handwriting does not prove anything. What we are left with is an

⁶⁷ See my Republic Myth book pp. 6-10; cf. Doug Morrissey's analysis of the letter in the appendix to his *Ned Kelly: A Lawless Life*.

⁶⁸ Tahnee Dewhurst, 'Analysing the handwriting', in Craig Cormick, ed., *Ned Kelly Under the Microscope* (CSIRO, 2014), 213-223.

interesting but not compelling speculation. Nothing here counters the long held view that Byrne wrote up neatly what Ned originated or drafted. Ned certainly adopted the Jerilderie letter as his own, telling Mr Living at Jerilderie to whom he entrusted the letter that it was “a little bit of my life”.

Should we look to Wallace as its possible author or co-author, as distinct from its scribe? Dufty is obviously correct to argue that if Wallace wrote the Jerilderie letter then he also wrote the earlier (December 1878) Cameron letter, upon which it is closely modelled [354; 358]. Given that the Jerilderie letter is only a longer and more ranting version of the Cameron letter, and as Jerilderie schoolteacher William Elliott observed at the time, apparently the product of a disorganised brain, it would hardly be a compliment to Wallace if he was responsible for its ravings. Any claim of Wallace’s authorship would indeed need to be based on the Cameron letter; and yet in that letter there is even less basis to stretch a claim for a political Kelly. But we can go further:

Dufty proposed that the Jerilderie letter “would have taken many hours and multiple drafts (particularly given the neatness of the writing, and the almost complete absence of mistakes and corrections), in a hideaway somewhere. There would have been multiple sessions, re-readings and conversations about it” [356]. While initially plausible as a hypothesis for its development, the theory breaks down when we consider the 7,403 word letter’s construction.⁶⁹

First, it consisted of “56 pages of blue-lined notepaper, in red ink until it ran out, then the last twenty pages in black”.⁷⁰ Wallace as a schoolteacher would not have run out of either colour ink.

Second, while the idea of multiple sessions makes sense (at least in terms of penmanship), there was no consistent application of effort in them that someone such as the experienced teacher Wallace would put into its production. Ian Jones noted that “The ‘remarkable variation’ in [its] writing sprang from the fact that the letter was written in 14 different sessions. The start of each session is marked by careful copperplate which slips into a more mature, relaxed hand and even into a tired scrawl after several pages. The longest session produced eight pages; the shortest, only one”,⁷¹ hardly indicative of a set of sessions that a teacher would put aside to write a well-presented document.

Third, the punctuation is abysmal. In many places there are no full stops to end sentences or capital letters to start new sentences; the spelling is atrocious throughout, and while some early pages have paragraphing, in others from p. 9 onwards some have none but are just a stream of words. Further, the original Jerilderie letter held by the State Library Victoria has a transcript margin note on p. 1, “The places left blank denote where words could not be made out.” A school teacher would never have written something so chaotically disjointed and hard to follow for a printer.

Fourth, there are large sections of almost direct text overlap between the shorter, earlier Cameron letter and the later, longer Jerilderie letter. (A visual comparison of these overlaps is on p. 65 of my Republic Myth book.) It is obvious that the former was the direct template for the latter.

The suggestion that there would have been “multiple sessions, re-readings and conversations about [the Jerilderie letter]” implies a coherence of thought and purpose that as Elliott noted is entirely absent from its disorganised ramblings. It is simply a rant, written in short sections of greatly uneven length averaging 4 pages each yet varying from 8 pages to only 1 across 14 sessions. It seems safe to say that Wallace was not involved in its writing up and, as has been held by most, it is most likely the product of Kelly and Byrne’s uneven (and by its content, possibly at times tipsy) attentions.

⁶⁹ SLV MS note, 7,403 words; far short of Max Brown’s oft-repeated claim of 8,300 words.

⁷⁰ Ian Jones, *The Fatal Friendship* (2003), 100.

⁷¹ Ian Jones, ‘Ned Kelly’s Jerilderie Letter’, *LaTrobe Journal*, 66 (Spring, 2000), 33-37.

Why was Kelly's murder trial moved to Melbourne?

Bill suggested a climate of unrest in the north-east as the motivation for Kelly's trial being moved from Beechworth to Melbourne: "It had become apparent to [Kelly's solicitor] Gaunson and [his barrister] Bindon that if the case had been held in Beechworth Ned would have got huge sympathiser support which may have caused more social unrest in north-east Victoria for the authorities and 'make it possible that Kelly would be acquitted'" (294). This idea builds on Bill's previous argument for a huge number of Kelly sympathisers in the north-east which I rejected above, bypasses discussion of the reason the trial location was moved, and ignores that Gaunson failed to lodge an affidavit against the relocation.

Crown Prosecutor Smyth's application to relocate the trial to Melbourne centred on two key points: "That from the lawless conduct and threatening demeanour of some of the relations friends, and sympathisers of the said Edward Kelly. I believe efforts would be made to intimidate certain of the jurors on the jury panel of the said Assize Court, and that some of the said jurors might probably be thereby deterred and intimidated from finding a verdict in accordance with the evidence", and "That should a jury find a verdict of guilty against the said Edward Kelly, I verily believe that those members of the said jury who live in the country districts of the said bailiwick would be liable to serious injuries in their persons, families, and property at the hands of the said relations, friends and other sympathisers of the said Edward Kelly" (*Argus*, 20 September 1880, 7).

Gaunson asked for and was granted an adjournment for time to consult his client, Kelly, who was given the opportunity "to show cause why the venue should not be changed from the Beechworth Assize Court to the Central Criminal Court at Melbourne" (*Herald*, 16 September 1880, 3). When Gaunson again appeared to discuss the matter he "proceeded to contend that it was unlikely that the local jury would consist of sympathisers with the prisoner". Smyth said, "No, we do not think that for a moment, but they may be in terror of the sympathisers." For unknown reasons Gaunson then ignored the standard legal process and did not lodge any affidavit of objection on behalf of his client Kelly. As a result, Judge Barry followed the standard legal process, stating, "It appears to me that my duty in this case is very simple, for there is no counter affidavit here. I am clearly of opinion that enough has been disclosed to justify me not only in granting the change of venue, but also in demanding that the change should be made.' The application was accordingly granted." (*Bendigo Advertiser*, 23 September 1880, 2).

Graham Fricke's suggestion in his *Ned's Nemesis*, cited by Bill, that "the Crown applied to Barry and asked for a change of venue because they suspected there was enough sympathy in the north east to make it possible that Kelly would be acquitted and Barry went along with that, and this was probably unfair" (306) wrongly saw Smyth's affidavit and Barry's actions as some kind of conspiracy to 'get Ned'. Coming from a Barry-bashing lawyer, this is alarming to see in what is supposed to be a proper legal analysis of a long established legal process of the day, that was followed to the letter. It is also directly contradicted by Smyth's words quoted above from the *Advertiser*, that the Crown did *not* think that a Beechworth jury would consist of sympathisers with the prisoner. It is nonsense.

There is nothing in any of the exchanges between Gaunson, the prosecution, or Barry, about the north-east being in uproar in support of Kelly; or of a class struggle; or a land war. In Smyth's affidavit referenced above he stated, "I am informed and believe that in the said bailiwick, and more especially in the neighbourhood of Beechworth aforesaid, the said Edward Kelly has numerous relations, friends, and sympathisers, amongst whom strong feelings exist in favour of the said Edward Kelly", which says nothing about numbers, only vicious intent. Gaunson had for whatever reason failed to visit Kelly in gaol for which Barry had granted him time, and so did not obtain the

counter-affidavit that Gaunson himself had said was necessary. If anyone failed Kelly in this matter, it was solely Gaunson. But more likely Gaunson realised that he had no argument to pursue.

Still more fatal to the suggestion of any potential significant sympathiser unrest are Gaunson's own arguments against the relocation of Kelly's trial from Beechworth to Melbourne. He drew attention to the fact that three of the outlaws were dead, that the police had prosecuted a number of people for acting as sympathisers, but that all of them had been discharged; that Parliament had not revived the Felons Apprehension Statute, and that notwithstanding, not one act of violence or lawlessness had been committed on their part since it ceased to operate (combining text from the *Herald*, 18 September 1880, 2, and *Age*, 20 September 1880, 3). As to the Crown's claim that if the prisoner was found guilty at Beechworth the jury would be liable to serious injury in their persons and property, Gaunson argued that "the prisoner had a clear right to be tried where he was known for a number of years, and where the jurors would be able to give proper weight to any statements which he might make. There was no just reason for depriving him of the right to be tried by his fellow-countrymen. It would be a farce for the prisoner to challenge jurors called to try him in Melbourne. He did not know them and could not tell who had expressed an opinion against him or not, and that the affidavit of the Crown Solicitor did not justify a departure from the ordinary rule in these cases". This is clearly a selective argument against one point only of the Crown's affidavit, and Judge Barry reasonably asked if Gaunson had paid attention to its sixth point about armed gangs. Gaunson rejoined, "that in the pursuit of the gang a large sum of money was expended; but the inhabitants rather relished the performance, and were sorry when it ceased" (*Herald*, 22 September 1880, 2). That is, Gaunson is saying the overwhelming majority of north-east residents enjoyed and supported the Kelly hunt, and that armed gangs were not an issue, which is exactly the point about sympathiser numbers here.

Outside of that, it is clear from the evidence advanced in the Crown's affidavit that it was reasonable to suppose that a Beechworth jury "may be in terror of the sympathisers" and that moving the trial to Melbourne was both lawful and in the best interests of securing an impartial trial. Finally, it should be emphasised that nowhere in any of the discussion about the location of the trial is there the slightest thought or mention of any form of north-eastern district political unrest. None. The idea that the trial was moved to Melbourne for political reasons is another Ian Jones-based fiction.

For context, Jones initiated the claim of a political Kelly in a 1967 Wangaratta TAFE Kelly Seminar published in *Ned Kelly: Man & Myth* (1968) and retained it in his *Ned Kelly: A Short Life* [1995] 2008], 368, claiming that there was "immeasurable" rural unemployment at that time: "land war hitbacks – stock killing, the burning of haystacks and farms – had been described in the north-east as 'agrarian outrages', the term applied to Irish rebel activity", thus trying to link rural revenge with Irish politics. Jones' suggestion of a general insolvency was firmly rejected by Weston Bate, Professor of Australian Studies, in his response to Jones in the Wangaratta Seminar. Bates observed that "in many ways this is the best time for selectors in Victoria. The majority of them were on their feet, and were able to withstand many of the problems that would have hit them hard some years earlier."⁷²

Jones clung to his tale of impoverished rebellious selectors regardless of this expert input, replying, "We are in happy disagreement", and claiming against the facts that "In this climate of threat and change the spectre of the Kelly trial hung like a thundercloud. It was too dangerous to stage it in Beechworth. ... In this [Barry's] view, Smyth's argument – that a conviction would be difficult in Beechworth – not only justified the change but *demand*ed it." Jones thus deliberately misquoted - and in doing so badly slandered - both Smyth and Barry to support his fanciful claim that Barry moved the trial to Melbourne so as to ensure Kelly's conviction. It is entirely a nonsense claim.

⁷² Bates, in C. Cave, ed., *Ned Kelly: Man & Myth* (Cassell, 1968), 186.

Fragments (or figments) of republican imagination

Scattered throughout Bill's book are fragmentary suggestions that some kind of coherent republican sentiment existed in north-eastern Victoria. Max Brown's prefatory wild claim in *Australian Son* that "a declaration for a republic was found in Kelly's pocket upon capture" gets an early mention (7), as does *Age* theatre critic Leonard Radic's 1969 claim to have seen a printed copy of a declaration while in London in 1962 (21), a claim later withdrawn. Bill then changes the claim to Radic seeing "a block type printed leaflet spelling out a separation plan" (21), but Radic never said anything about a separation plan in anything quoted from him, and certainly not a spelled out plan. It was always an eight year old hazy recollection of a block type, printed declaration for a republic that Radic thought he had seen. Most alarmingly, Bill has a diagram that states that the Jerilderie letter "proposes a republic for North-Eastern Victoria" (21) when neither it nor the Cameron letter say any such thing.

To my assertion that the news fragment about letters found in Kelly's pocket has no mention of any republican document or sentiment, Bill replies, "Who knows what came out of Ned Kelly's pocket after his capture, and if it was a political declaration for separation, it is no wonder it was hidden from public view" (246); but this did not prevent him from speculating that "We can assume ... that Ned Kelly had nothing more than a Victorian Land League handbill in his pocket based on the previous Rev. Lang's [Victorian independence] declaration, or, it was nothing but a 'quaint mock-up' of such a bill, and that other copies of such bills were destroyed from public scrutiny by their supporters for fear of being charged with treason!" (244). As discussed in this review in the section, 'Were there any significant colonial republican sentiments in North-East Victoria?', the only indication of what Kelly had in his pocket is the word 'letters'. There was nothing treasonous in Lang's declaration and endless pamphleteering that spanned a couple of decades;⁷³ nor in anything published by the Victorian Land League. There is no historical basis for speculating about any potential government suppression of the Victorian Land League.

Bill says that "the government would silence any reference made to a republic" (254), and that "It can be surmised that in the 1880s nobody was publicly prepared to claim any support for a 'republic' movement for fear of being charged with treason which, if charged, carried the death penalty" (241). This is based on Chief Justice John Harber Phillips' 2003 Kerferd Oration's agreement with Ian Jones that that no one then would speak of a republic as it would be tantamount to treason. We find this suggested earlier when Bill says that "At the time [1880s] the republic idea was to be seen as treason, interpreted as 'the crime of betraying one's country, especially by attempting to kill or overthrow the sovereign or government'" (232). In the first place this confuses a treasonous act of murder or revolution (such as the French Revolution) with an aspirational goal of a monarchless state. In the second place it is totally wrong, as (unsurprisingly by now) were Jones and Phillips.

We find Mr Buchanan, a Protectionist, addressing a working men's gathering in Sydney in 1880 and openly declaring "that he was a Republican by political creed".⁷⁴ While many newspaper articles of the day discussed the French, American and other republics in less than glowing terms, a 780 word article in the *Sydney Freeman's Journal* of 23 November 1878, 17 under the banner 'Republic for Australia' enthused, "It would indeed be a patriotic work to publish Dr. Lang's 'Freedom and Independence for Australia' in cheap form; then the people would see what true loyalty is, and we might soon hope to rise from the sleepy hollow to the greatness of nationality. Dr. Lang tells us 'it is matter of sacred history that the only form of human Government that was ever divinely established

⁷³ Jan Lencznarowicz, 'The Coming Event: John Dunmore Lang's Vision for an Independent Australia', *Politeja*, 16 (2019): 463-479.

⁷⁴ *Evening News* (Sydney), 29 March 1880, 2, <https://trove.nla.gov.au/newspaper/article/108746048#>

upon earth was the Republican in the wilderness of Sinai', and his reasons that we should be independent in 1852 are still more potent in 1878!".⁷⁵ An 1880 article headed 'Mr Redpath's Red Republicanism' lambasted Redpath for a speech at a Land League meeting in Ireland in which "he declared that kings and lords are the human vermin of society, who lurk and feed in the festering sores.' He proclaimed it 'a high crime and misdemeanour for queens and wives of lordlings to be sumptuously dressed by the robbery of the poor', and that 'he is of opinion that Ireland will never achieve independence except by the sword'".⁷⁶ Of course it is true that the article is hostile to that republican speech; the point is that all three articles show that republicanism could be discussed in the Kelly period. A book by Audrey Oldfield, *The Great Republic of the Southern Seas: Republicans in Nineteenth-Century Australia*, traces a range of republican advocates right through the century. In 1880, the year Kelly was hanged, *The Bulletin* launched: "From the beginning *The Bulletin* was republican. It reported republican activity in Britain and forecast the end of the monarchy and the aristocracy; both were 'absurd in principle and pernicious in practice', for wisdom and ability to govern could not be inherited".⁷⁷ What is notably absent from that book is any mention of anyone from 'Kelly country' saying anything whatsoever about a north-east Victorian or Kelly-led republic.

In Alfred Deakin's memoir *The Federal Story*, he says of one of the key Australian 1890 Constitutional Convention leaders, Inglis Clark, that "his sympathies were republican, centering upon Algernon Sydney among Englishman, upon Mazzini in Italy and especially upon the United States, a country to which in spirit he belonged, whose Constitution he revered and whose great men he idolized".⁷⁸

Does this support Bill's theory that proto-republican sentiments infused the Federation movement? No, it does not. The Rev. J.D. Lang's vision for a fully independent Australia was articulated in a multitude of writings from 1826 to 1870 under his own and other pen-names. In an outstandingly detailed analysis of Lang's views, Jan Lencznarowicz wrote that his influence "advanced the cause of an Australian federation which came into existence 22 years after his death", but that in his time "the overwhelming majority of his countrymen opposed separation [from England] and abhorred republicanism".⁷⁹ Lang was a Scottish Presbyterian minister; far removed from the Kellyland fantasy of Irish republican selector influences on Australian political moves towards the 1901 Federation, let alone anyone regarding the Kellys or their gang having any political views at all. Bill says, "Perhaps a republic of North-Eastern Victoria was never to be except as a notional hope with regards to hundreds of land reform meetings held during the early 1880s" (248). Again, Bill provides no evidence, and I haven't been able to find any, that anything resembling republican sentiments was ever mentioned at land reform meetings when it is abundantly clear that such sentiments could have been mentioned regardless whether they were booed down. It was not treasonable to voice any such sentiments in Victoria, yet nothing anywhere suggests that many did. More to the point, nothing anywhere ever suggested a 'Republic' in north-eastern Victoria before the *Bulletin* mocked it

⁷⁵ *Freeman's Journal*, 23 November 1878, 17: "I will only refer to the great and Liberal statesman, Gladstone, who, I believe, values the utterances of the people of England. In the Nineteenth Century he says: "The day has gone by when England would dream of compelling these colonies by force to remain in political connection with her. On the other hand, she would never suffer them to be wrung from her. If the day should ever come when, in their own view, the welfare of those colonies would be best promoted by their administrative emancipation, the Liberal mind of England would say: 'Let them depart; for if their highest welfare requires their severance we prefer their amicable impendence to their constrained submission'", <https://trove.nla.gov.au/newspaper/article/111097687>

⁷⁶ *Australian Town and Country Journal*, 4 December 1880, 41.

⁷⁷ Audrey Oldfield, *The Great Republic of the Southern Seas: Republicans in Nineteenth-Century Australia* (Alexandria, NSW: Hale & Iremonger, 1999), 212-13.

⁷⁸ Alfred Deakin, *The Federal Story: The Inner History of the Federal Cause* (Melbourne, 1944), 30.

⁷⁹ Jan Lencznarowicz, "'The Coming Event!': John Dunmore Lang's Vision for an Independent Australia", *Politeja*, December 2019, 477; 475.

in a spoof article in 1900, as my Republic Myth book showed. The idea of voicing an independent regional 'Republic' in the 1870s-1880s, independent of both Victoria and England, is preposterous.

Overall summary comments on Bill Denheld's Ned Kelly, Australian Iron-Icon: A Certain Truth

I had been looking forward to Bill's book for over a year due to his decades-long engagement with the Stringybark Creek police campsite location issue and other interesting material on his Iron-Icon website,⁸⁰ in particular his evidence that the Beveridge Kelly house now being done up with taxpayer funding was never lived in by the Kellys, but was one of several speculation houses that Red built for rent or sale at that time while the Kellys themselves lived at Wallan throughout; and another article showing that the Whittys were not squatters as often held, but settler-selectors.⁸¹ These are exciting and controversial topics, and well put together. Whether Bill's SBC campsite and Sergeant Kennedy murder locations are ultimately right or not, he has presented a rigorously documented case that is clearly capable of analysis and testing. Yet his work and submissions have been ignored by the Heritage Victoria and DWELP/DECCA bureaucracy whose job it is to get the facts of heritage claims right. There is every reason for them to reopen this issue given they have poured a lot of taxpayer funding into a walking trail and signage that Bill argues lead to places where nothing happened.

There are three core topics upon which Bill and I disagree, that demanded this book review due to his devoting his chapter 12 to a critique of my *'The Myth of a Republic of North Eastern Victoria'*.

The first is Fitzpatrick, where the disagreement is about what happened in the Fitzpatrick incident. Bill has relied mostly on Kenneally's 1929 *Inner History* for the framework of his presentation, and ignored my reconstruction of the incident in my *'Redeeming Fitzpatrick'* article which proved that Fitzpatrick's statements and testimony can be almost entirely independently corroborated. Bill also suggests two things unrelated to the Fitzpatrick incident: that he was involved in illicit horse dealing with Ned Kelly which led him to turn on Kelly to cover himself, and that he was a fall guy for a police establishment that was out to "get" the Kellys as potential social rebels as much as criminals. I have never seen the first proposition anywhere else and, as discussed in the Fitzpatrick section of this review, it is impossible. His next proposition draws on previous work, notably by Kenneally in 1929 with the theory of "loaded dice", that the police were out to get the Kellys by hook or by crook – yet even in J.J. Kenneally there is not the vaguest suggestion of any political thought by the Kelly gang.

Secondly, the Kelly republic myth remains demolished as an elaborate fiction. Indeed, Bill accepts that; and despite his best endeavours to identify a proto-republican movement among Kelly sympathisers, it remains a myth. He discusses separation movements, the Victorian Land League, the Australian Natives Association, and the push for Federation, but provides little to suggest any involvement of Kelly sympathisers in any of these movements and none to show any involvement by the Kellys or their relatives. The closest it gets is that eight year old Ned went to the same school for half a year as did a boy who grew up to be a foundation member of the Berrigan (NSW) Federation League, and that Joe Byrne went to school with James Wallace who grew up to become a teacher and double agent, and who appears to have helped shelter the gang on the run after their outlawry, but whose involvement in the land reform movement appears unconnected with republicanism.

Even John McQuilton, whose *The Kelly Outbreak* imported the notion of a social bandit from British Marxist Eric Hobsbawm,⁸² and attempted to apply it to north-east Victoria where it simply doesn't

⁸⁰ <https://www.ironicon.com.au/>

⁸¹ Anon, "The case for James Whitty" (Unknown, 2001), 3, at <https://www.denheldid.com/twohuts/the-case-for-james-whitty.htm>

⁸² https://www.youngfabians.org.uk/hobsbawm_britain_s_most_loved_marxist

work,⁸³ failed to unearth even one example of Ned having any political ambitions in his many addresses to captives during his two years on the run. The closest Kelly got was a rant at Glenrowan: Constable Bracken related that “When we were held prisoners in the hotel Ned Kelly began talking about politics. ‘There was one — in Parliament,’ he said, ‘whom he would like to kill, Mr. Graves.’ I asked why he had such a desire, and he replied, ‘Because he suggested in Parliament that the water in the Kelly country should be poisoned, and that the grass should be burnt. I will have him before long.’ He knew nothing about Mr. Service but he held that Mr. Berry was no — good, as he gave the police a lot of money to secure the capture of the gang; too much by far”.⁸⁴ Kelly was a boofhead.

Third, Bill suggested (as have others, including Graham Fricke, Q.C.), that moving Kelly’s trial to Melbourne was an unscrupulous manoeuvre by the government with the connivance of Judge Barry to ensure Ned’s conviction. This is wrong and requires a response. Bill quotes Fricke from a 2008 ABC interview: “the Crown applied to Barry and asked for a change of venue because they suspected that there was enough sympathy in the North East to make it possible that Kelly would be acquitted, and Barry went along with that, and this was pretty unfair and ... I doubt that he would have been acquitted in the North East, but his chances would have improved had he been tried at Beechworth” (306). This blatantly misrepresents why the prosecution asked for a change of venue. As discussed in the section in this review on why the trial was moved, the request was made to ensure a fair trial in which jurors would not be intimidated by threats of revenge. Crown Prosecutor Smyth explicitly said that it was not to gain favour towards a conviction: To repeat it here: to Gaunson’s argument “that it was unlikely that the local jury would consist of sympathisers with the prisoner”, Smyth said, “No, we do not think that for a moment, but they may be in terror of the sympathisers.” Both Bill and Fricke have gone over the hills and far away here by ignoring what was clearly reported at the time.

Bill also suggested that as I have a doctorate, “the learned strive for acceptance from their peers and professional associates and professional people rely on financial income from studies, so money influences truth” (271). This implies that my view of the Kelly outbreak and the conclusions in my Republic Myth book were somehow influenced by a desire for academic acceptance or reward. As I said on David Macfarlane’s *Ned Kelly: The True Story* blog,⁸⁵ I have written none of my Kelly material as an employed academic and couldn’t give a rat’s ass about the university system. Further, I have not made one cent for any of my Kelly myth-busting research; all my articles are available free online. It is true that I had an honorary research position that gave me a free library card for a few years; but that’s it. The few Kelly academics are mostly Kelly enthusiasts: Molony, McQuilton, McMenemy; as are the lawyers who’ve written about Kelly: Waller, Phillips, Fricke, Burnside, Stoljar. The implication is wrong. I’m interested in myth-busting historical nonsense to make better sense of the past; that’s all. And because it’s fun. If you’ve read all of this review I hope that you too have enjoyed the ride.

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⁸³ See the documented critique in my Republic Myth book.

⁸⁴ *Argus*, 30 June 1880, 6.

⁸⁵ <https://nedkellyunmasked.com/>

