

## Sir John Young

(16 May 1861 – 24 December 1867)

*Gareth Griffith*

When Sir John Young arrived in Sydney on 21 March 1861 he found, in his own words, “a political storm raging with the utmost violence”.<sup>1</sup> At its epicentre was the land question about which the two Houses of the fledgling NSW Parliament were in serious disagreement. It is too much to claim that the very life of responsible government in the colony was at stake. Such violence as existed was rhetorical in nature, at the high end of the normal range of political disputation admittedly, but by no means beyond the bounds of parliamentary culture in New South Wales, where bitter personal attacks and emotional outbursts were the common currency of debate in the Legislative Assembly. For the colony the stakes were high enough. With the reconstruction of the Upper House on the agenda, a self governing New South Wales faced its first major constitutional test. For Young, too, the stakes were high. Fresh from a shaky stint as Commissioner of the Ionian Islands, he must have been eager to prove himself, to show his friends in London that their trust in him was not misplaced. An able and experienced politician, Young would need every resource at his disposal if his reputation was to survive the challenges that awaited him.

### **Peel’s chief whip**

Born on 31 August 1807 in Bombay, India, the eldest son of Sir William Young, first Baronet of Bailieborough in the County of Cavan and East India Company director, John Young spent his early years in Ireland, as a scion of the Protestant ascendancy. Climbing the ladder of privilege, from Eton he went to Corpus Christi College, Oxford, afterwards to be admit-

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combines luck with cunning in politics. Political reputations can hang by a thread, a wrong move here, a bad connection there. For Young, it was in New South Wales that his luck held out. His reputation here is for sound political judgment. His political background and social skills, his tact, his willingness to listen and to instruct, made him the right man in the right place at the right time.

## Notes

- 1 No 37, Young to Newcastle, 21 May 1861; CO 201/518.
- 2 Carlyle, EI, "Young, John – Baron Lisgar", in Matthew, HCG, and Harrison, B (eds), *Oxford Dictionary of National Biography*, vol 60, OUP, Oxford, 2004, p 919.
- 3 Ward, JM, "Young, Sir John [Baron Lisgar]", *Australian Dictionary of Biography*, vol 6, MUP, Melbourne, 1976, p 455.
- 4 *Hansard, House of Commons*, 6.7.1831, p 918.
- 5 *Hansard, House of Commons*, 9.2.1838, p 988. Perhaps his longest speech as a backbencher, certainly his most detailed, was in defence of free trade – *House of Commons*, 24.7.1851, p 1432.
- 6 Parkes, H, *Fifty Years in the Making of Australian History*, vol 1, Longmans, Green and Co, London, 1892, p 203.
- 7 Gash, N, *Politics in the Age of Peel: A Study in the Technique of Parliamentary Representation 1830-1850*, Longmans Green and Co, London, 1953, p 351.
- 8 *House of Commons*, 26.3.1846, pp 136-9.
- 9 Gash, N, *Sir Robert Peel: The Life of Sir Robert Peel After 1830*, Longman, London, 1972, pp 572, 586, 591, 619-25.
- 10 Foot, MRD and Matthew, HCG, *The Gladstone Diaries, Vol 111 – 1840-1847*, Clarendon Press, Oxford, 1974, p 674.
- 11 Carlyle, p 919.
- 12 Weintraub, S, *Disraeli: A Biography*, Hamish Hamilton, London, 1993, p 257.
- 13 Partridge, M, *Gladstone*, Routledge, London, 2003, p 89.
- 14 Shannon, R, *Gladstone, Vol 1 – 1809-1865*, Methuen, London, 1982, p 364.
- 15 Carlyle, p 919.
- 16 Shannon, p 364.
- 17 Graham, NI, "The Role of the Governor of New South Wales under Responsible Government, 1861-1896", PhD, Macquarie University, 1972, p 15.
- 18 Matthew, HCG, *Gladstone, 1809-1874*, Clarendon Press, Oxford, 1986, p 163.
- 19 Shannon, p 364. Cited is a Gladstone letter dated 19 October 1858.
- 20 Matthew, *Gladstone, 1809-1874*, p 163. It is suggested that the scheme was a "conspiracy" hatched between Lytton and Disraeli – Aldous, R, *The Lion and the Unicorn: Gladstone vs Disraeli*, Hutchinson, London, 2006, pp 108-12.
- 21 Morley, J, *The Life of William Ewart Gladstone, Volume 1*, Macmillan, London, 1903, p 601. According to Morley, the leak was perceived by Lytton as an "inconceivable misfortune. It made Austria uneasy, it perturbed France, and it irritated Russia".
- 22 Jenkins, R, *Gladstone*, Macmillan, London, 1995, p 194.
- 23 Morley, p 601.
- 24 Matthew, HCG, *The Gladstone Diaries, Vol V – 1855-1860*, Clarendon Press, Oxford, 1978, p 342. Gladstone added "Lady Y. not wise".
- 25 *Ibid*, p 351.

- 26 Ibid. Gladstone recommended Young's transfer on the ground that the published despatch made his position "untenable".
- 27 In 1864 all the islands were in fact united with Greece.
- 28 Shannon, p 369.
- 29 Graham, p 15.
- 30 Jenkins, p 196.
- 31 *The Times*, 13.1.1859, p 8.
- 32 Graham, p 15.
- 33 One of the first legislative acts of the NSW Parliament was to dispense with the requirement that any reconstruction of the Legislative Council would need a two-thirds majority at the Second and Third Reading stages in both Houses.
- 34 *Sydney Morning Herald*, 13.5.1861, p 3.
- 35 Ibid. Gladstone said "He had strongly recommended, and was quite ready, if asked to do so, to accept the whole responsibility of that appointment".
- 36 Ibid.
- 37 Graham, p 53.
- 38 Young was Administrator from 22 March to 15 May 1861, becoming Governor on 16 May 1861. For convenience he is referred to as Governor throughout this chapter.
- 39 Graham, pp 15-16.
- 40 "The swearing in and levee", *The Empire*, 23.3.1861, p 4.
- 41 Connolly, CN, "Politics, Ideology and the New South Wales Legislative Council, 1856-72", PhD, Australian National University, 1974, p 178.
- 42 Separate and Confidential Young to Newcastle, 23.9.1861; CO 201/519.
- 43 Confidential Denison to Newcastle, 18.1.1861, CO 201/517. Suggesting his more confrontational approach, Denison regretted that he had not refused to assent to the *Electoral Act* of 1859 which, by introducing manhood suffrage, had brought about the "most marked and objectionable" change in the character of the Legislative Assembly.
- 44 Separate Newcastle to Young, 4.2.1861; Loveday, P, "The Legislative Council in New South Wales, 1856-1870", in *Historical Studies Australia and New Zealand*, vol 11, no 44, 1963-65, p 481, p 492.
- 45 Confidential Young to Newcastle, 19.4.1861.
- 46 No 37 Young to Newcastle, 21.5.1861; CO 201/518.
- 47 Confidential Young to Newcastle, 19.4.1861.
- 48 No 37, Young to Newcastle, 21.5.1861; CO 201/518. The Council altered the bills to remove the right of free selection before survey which was central to the Government's scheme – Loveday, p 489.
- 49 Connolly, p 182.
- 50 Clune, D and Griffith, G, *Decision and Deliberation: The Parliament of New South Wales 1856-2003*, Federation Press, Sydney, 2006, pp 92-5.
- 51 Ibid, pp 110-11. The term of the first nominee Council was due to end on 13 May 1861.
- 52 Graham, p 63. "Whatever may be the excuse, or, some will say, the justification – no one can doubt that the power of the Crown has been prostituted by a violence which postponed, rather than carried out, a measure professedly in favour of the people" – *Sydney Morning Herald*, 21.5.1861, p 4.
- 53 Separate Newcastle to Young, 26.7.1861.
- 54 Loveday, p 491; Connolly, p 185 – "Young's defence has won the approval of later historians"; Graham, p 77.
- 55 Currey, CH, "The First Proposed Swamping of the Legislative Council of New South Wales", in *Journal of the Royal Australian Historical Society*, vol 15, pt 5, 1929, p 282, p 291.

- 56 Connolly, p 180. Cited is a letter from Deas Thomson to Young dated 7 June 1861.
- 57 The same might be said of the proposed recommittal of the land bills – Graham, pp 66-7.
- 58 No 51, Young to Newcastle, 19.7.1861; CO 201/518.
- 59 *Journal of the Legislative Council, NSW, 1861-62, vol VIII, p 161.*
- 60 Ibid.
- 61 Connolly, p 181.
- 62 No 51, Young to Newcastle, 19.7.1861; CO 201/518.
- 63 No 37, Young to Newcastle, 21.5.1861; CO 201/518.
- 64 Graham, p 62.
- 65 No 51, Young to Newcastle, 19.7.1861; CO 201/518.
- 66 Separate and Confidential Young to Newcastle, 23.9.1861; CO 201/519.
- 67 *NSW Government Gazette, 1861, vol 2, p 1477.*
- 68 Graham, p 69.
- 69 Connolly, p 193; citing Young to Cardwell, 16.2.1865.
- 70 Loveday, p 494.
- 71 From the original list of 27, five declined on personal grounds and one was objected to as he indicated he “intended to oppose the land bills and generally the policy of the Government”. Seats were then offered to three others, two accepting and one declining on private grounds – No 53, Young to Newcastle, 20.7.1861.
- 72 No 53, Young to Newcastle, 20.7.1861; CO 201/518.
- 73 The relevant minute of the Executive Council was attached to the Governor’s letter of appointment – Richards, T, *An Epitome of the Official History of New South Wales*, Thomas Richards, Government Printer, Sydney, 1883, p 344.
- 74 Connolly, p 197.
- 75 Correspondence with Young from 14 June 1861 referred to in Loveday, p 495.
- 76 Ibid.
- 77 Connolly, p 184; Foster, SG, “Edward Deas Thomson and New South Wales”, PhD, University of New England, 1975, p 419.
- 78 Anson, WR, *The Law and Custom of the Constitution*, vol 1, 5th ed, Clarendon Press, Oxford, 1922, p 302.
- 79 Clune and Griffith, p 114 and pp 280-4.
- 80 No 53, Young to Newcastle, 20.7.1861; CO 201/518.
- 81 No 37, Cardwell to Young, 26.5.1865.
- 82 No 14, Young to Cardwell, 16.2.1865; CO 201/533.
- 83 Keith, AB, *Responsible Government in the Dominions*, 2nd ed, Clarendon Press, Oxford, 1928, p 451.
- 84 This discretionary power found formal expression in clause 13 of Young’s Instructions of 5 March 1861 which allowed him to act in opposition to the Executive Council’s advice if he saw fit, provided that he immediately explained his action to the Colonial Office.
- 85 Parkes, p 203.
- 86 Confidential Young to Cardwell, 22.7.1865; CO 201/534.
- 87 Ward, pp 455-7.
- 88 Confidential Young to Buckingham/Chandos, 22.10.1867; CO 201/543: Graham, pp 79-81.
- 89 For an account of the exercise of the prerogative power to dissolve Parliament in the Dominions, see Keith, ch 3; for a later account of “refusal of advice” in the United Kingdom, see Marshall, G, *Constitutional Conventions*, Clarendon Press, Oxford, 1993, pp 35-44.

- 90 Clune and Griffith, p 20.
- 91 The *Claims Against the Government Act 1861*, the *Queensland Boundary Customs Act 1862*, the *Clergy Stipend Act 1863* and the *Real Estate of Intestates Distribution Act 1863* – Graham, pp 81-4.
- 92 Graham, pp 86-8.
- 93 Ibid, p 89.
- 94 Ibid, p 91.
- 95 Ibid, pp 611-14.
- 96 Confidential Young to Cardwell, 20.11.1865; CO 201/535.
- 97 No 92, Young to Cardwell, 12.11.1864; CO 201/531.
- 98 Young to Rogers, 10.6.1868; CO 201/550. See generally Graham, pp 98-100. Graham writes that, in seven years, “Young delegated authority to summon the executive council, because of his absence from Sydney, only twice” (p 107).
- 99 Ibid, p 382.
- 100 Ibid, p 368.
- 101 Parkes, p 203.
- 102 No 96, Young to Buckingham/Chandos, 23.10.1867; CO 201/543; Graham, pp 385-6.
- 103 Graham, pp 389-91.
- 104 *Newcastle Wallsend Coal Company v Arnold* (1863) 2 SCR (NSW) Eq 26 at 28. It seems the company had asked the Governor to endorse a Petition of Right, further to the *Claims Against the Crown Act* of 1861 (24 Vic 27), but that, subsequent to the initial proceedings, the case had been disposed of by agreement of the parties. Young’s despatch was therefore seeking to clarify the appropriate principles for future application. See generally Finn, P, *Law and Government in Colonial Australia*, OUP, Melbourne, 1987, pp 141-55.
- 105 Hargrave drew a distinction between cases where a Minister has a specific duty set by statute (where the courts can intervene to enforce the performance of that duty), and cases involving “the discretionary advice or conduct of Responsible Ministers of the Crown” (where courts cannot intervene).
- 106 Confidential Young to Newcastle, 20.7.1863, CO 201/527.
- 107 29.10.1863, CO 201/528. Rogers confirmed in a marginal note that an aggrieved person, if refused in New South Wales, could make application for a Petition of Right to the Queen “in this country”. “Let right be done in the Supreme Court of New South Wales” concluded the Law Officers
- 108 Parkes, pp 205-6.
- 109 Ward, pp 455-7.
- 110 It seems in 1866 Young received from the civil service a petition pleading for reform along these lines – Graham, pp 376-7.
- 111 Graham, p 380.
- 112 Ward, pp 455-7.
- 113 Carlyle, p 920.
- 114 Blake, R, *Disraeli*, Eyre and Spottiswoode, London, 1966, p 495.
- 115 Matthew, *Gladstone, 1809-1874*, p 189.
- 116 *Dictionary of Canadian Biography Online* – <<http://www.biographi.ca/EN/ShowBio.asp?BioId=39455&query=lisgar>>.
- 117 Carlyle, p 920.
- 118 Lady Young, who was to remarry, died on 19 July 1895.
- 119 Carlyle, p 920.