# Hate Speech: We've been down this road before*

## Introduction

Let me start with a disclaimer. The murder of 15 people at a Hanukah celebration in December 2025 is the worst incident of ethno-religious violence in the nation's history. Nothing I say tonight is intended to diminish that fact.

Some say history repeats itself, others that it merely rhymes. As an historian, I am not so sure. But what the study of history has taught me is that the author of *Ecclesiastes* was right when several millennia ago he wrote: 'What has been will be again, what has been done will be done again; there is nothing new under the sun'.[1] What happened at Bondi on 14 December 2025 and the debate that followed regarding the regulation of hate speech is not unprecedented in this country, except as to scale.

Tonight, I will speak to you about two incidents of ethno-religious violence in the nineteenth century in each of which shots were fired into a crowd with fatal consequences. The shooters were members of the Orange order, an anti-Catholic organisation founded in the north of Ireland in 1795 which was active in the Australian colonies from the 1840s. The crowds comprised mostly Catholics of Irish birth or descent.

Following the first incident, which occurred in Melbourne in 1846, Governor Fitzroy on the advice of his Attorney General, John Hubert Plunkett, sent to the Legislative Council a bill to prohibit party processions and displays of banners. As is the case today, the legislation was controversial and had unintended consequences. But before we delve into the detail of these two incidents of Orange on Green violence and the official responses to them, let me provide the context in which these events occurred.

## Sectarianism in Australia[2]

When the First Fleet arrived in Sydney Cove in 1788 it brought not only convicts and their gaolers but also the baggage of centuries of religious hostility and ethnic antagonism. This baggage was the product of more than 600 years of English domination of Ireland and 250 years of religious schism following Henry VIII's withdrawal of English Christianity from the jurisdiction of Rome. As a result, the English, the Welsh, and the Scots became predominantly Protestant, while the Irish largely remained Catholic. The combination of racial and religious difference between the Irish and the British was a potent mix that led to a series of wars and civil disturbances in both Ireland and Britain.

For the purposes of this lecture, the two most significant of these was the Battle of the Boyne in 1690 and the Battle of the Diamond in 1795. The first occurred in County Meath about 50 kilometres north of Dublin, when the Protestant king William III, formerly Prince William of Orange, whom parliament in 1689 had proclaimed king of England, Scotland, and Ireland, defeated the deposed Catholic king James II. William's

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[1] Ecclesiastes 1:9.

[2] For a discussion of sectarianism in Australia see Michael Hogan, *The Sectarian Strand: Religion in Australian History*, Penguin, Melbourne, 1987; Jeff Kildea, *Tearing the Fabric: Sectarianism in Australia 1910-1925*, Citadel Books, Sydney, 2002; Mark Lyons, 'Aspects of Sectarianism in New South Wales Circa 1865 to 1880', PhD Thesis, Australian National University, 1972.

* A talk given by Dr Jeff Kildea, Honorary Professor in Irish Studies at the University of New South Wales, to the Aisling Society of Sydney at the Consulate-General for Ireland, Sydney on 25 February 2026.

victory ensured Protestant hegemony in both Britain and Ireland. It was a hegemony reinforced by penal laws that would last into the nineteenth century.[3]

The so-called Battle of the Diamond was a sectarian affray near Loughgall in County Armagh, in which the Protestant Peep o' Day Boys beat off members of a Catholic association known as the Defenders, leading to the establishment of the Loyal Orange Institution, also known as the Orange order. Named in honour of William III, the order's members pledged themselves to support the Protestant ascendancy, to oppose the fatal errors and doctrines of the church of Rome, and to resist the extension of the Catholic church's temporal power. From the 1840s Protestant Irishmen from the north of Ireland formed Orange lodges in the Australian colonies and each year on the Twelfth of July they would celebrate the anniversary of the Battle of the Boyne.[4]

Following the founding of the colony at Sydney Cove, it was not long before the antagonisms of the old world took root in the soil of the new. Reverend Samuel Marsden, an English-born magistrate known as 'the flogging parson', regarded the Irish as 'the most wild, ignorant and savage race that were ever favoured with the light of salvation'. Marsden's stereotype took hold in the colony, where the Irish were often scorned as stupid, lazy, rebellious drunkards and depicted in cartoon form with monkey-like features.[5] Another antagonist of Australia's Irish Catholics was Scottish-born Presbyterian Reverend John Dunmore Lang. Concerned at the influx of Irish Catholic immigrants under the government's assisted immigration scheme, Lang published in 1841 a pamphlet entitled 'The Question of Questions! or, Is this Colony to be transformed into a Province of the Popedom?', in which he described the Irish as 'the most ignorant, the most superstitious, and the very lowest in the scale of European civilisation' and warned of 'the shoals of Roman Catholic immigrants that are now pouring in upon us from the south and west of Ireland'.[6]

Lang was not alone in his concerns. In 1840 the *Sydney Herald* told its readers 'this Colony is flooded with ignorant and unskilful Irish Roman Catholics'.[7] If this rhetoric sounds familiar, don't be surprised. As I say, there's nothing new under the sun. What raised their hackles was the large number of Irish arriving under the various assisted immigration schemes. Between 1837 and 1850, 49 per cent of assisted immigrants arriving in the colony were Irish. The vast majority, in the order of 80 to 85 per cent, were Catholics.[8]

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[3] John Childs, *The Williamite Wars in Ireland, 1688-1691*, Humbledon Continuum, London, 2007, pp. 205-225; Charles Ivar McGrath, 'Securing the Protestant Interest: The Origins and Purpose of the Penal Laws of 1695', *Irish Historical Studies*, Vol. 30, No. 117, 1996, pp. 25-46.

[4] Jim Smyth, 'The Men of No Popery: The Origins of the Orange Order', *History Ireland*, Vol. 3, No. 3, 1995, pp. 48-53; Loyal Orange Institution of N.S.W., *Early History of the Loyal Orange Institution N.S.W.*, Grand Lodge of New South Wales, Sydney, 1926. Although the Orange order in Australia initially comprised Ulster Protestants, this changed during the century with increasing British membership even though Orange celebrations continued to concentrate on Irish historical events such as the Siege of Derry and the Battle of the Boyne.

[5] Dianne Hall, '"Now Him White Man": Images of the Irish in Colonial Australia', *History Australia*, Vol. 11, No. 2, 2014, pp. 167-195

[6] Hogan, *Sectarian Strand*, p. 62. In 1847 Lang published another pamphlet, 'Popery in Australia and the southern hemisphere, and how to check it effectually'.

[7] *Sydney Herald* 31 August 1840, p. 2.

[8] David Fitzpatrick, *Oceans of Consolation: Personal Accounts of Irish Migration to Australia*, Cornell University Press, Ithaca (NY), 1994, p. 14; Oliver MacDonagh, 'Emigration from Ireland to Australia: an

In his 1972 PhD thesis, historian Mark Lyons argued, 'Catholics were very largely responsible for bringing hostility upon themselves. Much of that hostility was a reaction against Catholic sectarianism, rather than the expression of an anti-Catholic predisposition'. To Lyons, Australia was a new world in which there emerged 'a broad liberal movement with a clear vision of a harmonious colonial society' including an important anti-sectarian strand. He charged that 'whatever conflict existed was largely a consequence of the rejection by Catholics of a social milieu that positively sought their assimilation and eschewed the bigotries of the old world'.[9]

This seems at odds with those earlier quotes. And recent research supports an alternative view. Historian Geraldine Vaughan has marshalled much of that research in a recent book on anti-Catholicism in Britain, Canada, and Australia.[10] Unlike Lyons, who regarded anti-Catholicism in Australia as the product of Catholic rejection of the anti-sectarian olive branch of colonial liberalism, Vaughan argues that anti-Catholicism was 'a multi-faceted phenomenon with theological, political, social and economic dimensions' that existed throughout the British empire because of an association between Protestantism and British identity. In other words, she contends: 'Catholics and their Church were rejected on account of their un-Britishness'.[11]

Vaughan also contends that Protestant anti-Catholicism increased through the nineteenth century as a reaction to growing Catholic assertiveness following the Catholic Relief Act of 1829 (also known as the Catholic Emancipation Act of 1829).[12] That act repealed most of the remaining penal laws that had been enacted after 1690, most significantly the laws preventing Catholics from becoming members of parliament or holding high office in government and the judiciary. As a result of their new status, Catholics exhibited a resurgence in the political, social, and economic life of the United Kingdom, including Ireland, which perturbed many Protestants. As historian Neil Maddox noted:

> Emboldened by their success, … the Catholic population would no longer accept their position as the subject caste of Irish society. Over the course of the century, privileges that Protestants had hitherto taken for granted were torn away, one by one.[13]

This stoked Protestant fears of a Roman threat to the British constitution and to the Protestant state enshrined in the Act of Settlement of 1701.

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Overview' in Colm Kiernan (ed.), *Australia and Ireland 1788-1988: Bicentenary Essays*, Gill and MacMillan, Dublin, 1986, pp. 121-137, p. 132.

[9] Lyons, 'Aspects of Sectarianism', p. viii.

[10] Geraldine Vaughan, *Anti-Catholicism and British Identities in Britain, Canada and Australia, 1880s-1920s*, Palgrave Macmillan, Cham (Switzerland), 2022. See also John Wolffe, 'Anti-Catholicism and the British Empire, 1815-1914' in Hilary M. Carey (ed), *Empires of Religion*, Palgrave Macmillan, Basingstoke (UK), 2008, pp. 43-63; John Wolffe, 'A Comparative Historical Categorisation of Anti-Catholicism', *Journal of Religious History*, Vol. 39, No. 2, 2015, pp. 182-202.

[11] Vaughan, *Anti-Catholicism*, pp. 5, 6, 15-16, 17.

[12] *An Act for the relief of His Majesty's Roman Catholic subjects* (10 Geo. 4. c. 7).

[13] Neil P. Maddox, '"A Melancholy Record": The Story of the Nineteenth-Century Irish Party Processions Acts', *Irish Jurist*, Vol. 39, 2004, pp. 242-273, p. 242. Maddox also observed: 'The formation of the Orange Order and the celebration of July 12 by parading provided an outlet for an increasingly isolated and threatened class to express its cultural identity, to assert its opposition to the reforming zeal of Parliament and to mount political campaigns against the erosion of Protestant freedoms' (pp. 242-243).

In Australia, too, Protestants found cause for alarm. Following the Emancipation Act, Catholics could be appointed to high office in the colonial administration.[14] Consequently, Governor Richard Bourke, an Irish Protestant who was a liberal, appointed as the colony's solicitor-general John Hubert Plunkett, an Irish Catholic and an associate of the promoter of Catholic emancipation Daniel O'Connell.[15]

Fear of Irish insurrection was also not far from Protestant concerns in the Australian colonies. During the Castle Hill rebellion of 1804 some 200 convicts, mostly Irish, many of whom were transported for their part in the Irish rebellion of 1798, attempted to march on Parramatta and Sydney. Many of the miners at the Eureka Stockade were Irish and their leader Peter Lalor was the brother of James Fintan Lalor, one of the leaders of the Young Ireland rebellion of 1848. In the 1860s the rise of revolutionary fenianism in Ireland and amongst the Irish diaspora in the United States became a source of concern in Australia. This was especially so after self-confessed fenian Henry James O'Farrell attempted in 1868 to assassinate Prince Alfred at Clontarf on Sydney's Middle Harbour. The 'fenian scare' was as real to nineteenth-century Australians as the fear of Islamic terrorism is to twenty-first-century Australians after September 11 and the Bali bombing.[16]

## Orange on Green: Melbourne 1846

The first incident of Orange on Green violence, dubbed by the Protestant press as 'the Popish riots', occurred in Melbourne on Monday 13 July 1846 outside the Pastoral Hotel in the city centre when Orangemen preparing to hold their Twelfth of July dinner unfurled from the hotel's window a banner depicting William III crossing the Boyne. Many Catholic Irish considered this a provocative act. The *Leader* newspaper, commenting on a later sectarian disturbance, observed:

> To Catholic Irishmen the picture has a deep and bitter significance… . The figure of William crossing the Boyne means to Irishman the final establishment of English domination, civil and religious; the beginning of a long period of cruel oppression on account of religious opinions.[17]

It was not only the banner that was provocative. Newspaper advertisements promoting Twelfth of July dinners spoke of King William's glorious victory over 'the Popish Hosts that would enslave British subjects and subvert the moral, political, and religious order of things as established by the British Constitution'. The advertisements urged Orangemen to attend the dinner 'to commemorate Protestant deliverance from Popish ascendancy, tyranny, and thraldom'.[18]

After the banner was unfurled a large crowd began to assemble in the street outside the hotel. With hooting and jeering, the crowd demanded the removal of the banner. Then

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[14] To remove doubt as to Catholic Emancipation Act's application to New South Wales, the Legislative Council adopted it by passing the *Roman Catholic Relief Act Adoption Act 1830* (10 Geo. IV, no 9).
[15] On Plunkett see Tony Earls, *Plunkett's Legacy: An Irishman's Contribution to the Rule of Law in New South Wales*, Australian Scholarly Publishing, North Melbourne, 2009; John N. Molony, *An Architect of Freedom: John Hubert Plunkett in New South Wales, 1832-1869*, ANU Press, Canberra, 1973.
[16] Robert Travers, *The Phantom Fenians of New South Wales*, Kangaroo Press, Kenthurst, N.S.W., 1986; Keith Amos, *The Fenians in Australia 1865-1880*, New South Wales University Press, Kensington, N.S.W., 1988; Gordon Pentland, 'The Indignant Nation: Australian Responses to the Attempted Assassination of the Duke of Edinburgh in 1868', *English Historical Review*, Vol. 130, No. 542, 2015, pp. 57-88.
[17] *Leader* 30 November 1867, p. 17.
[18] *Sentinel* 9 July 1846, p. 3.

some young men started pelting it with stones. Others tried to enter the building. The Orangemen retaliated by firing on the crowd from the hotel, wounding several onlookers. One of them was Jeremiah Denworth, who was wounded in the thigh. He was not part of the protest but was moving furniture into his new flat opposite the hotel. He would later die as a result of his wound. The police eventually intervened and arrested many on both sides. All were bailed to answer charges when called upon but ultimately no one was prosecuted for his part in the riot or the shooting.[19]

Instead, attention turned to the political arena with calls from the mayor and the press for legislation to suppress the activities of religious and political societies that might lead to breaches of the peace such as had occurred that day.[20] In response, Governor Charles Fitzroy on 7 October 1846 sent to the Legislative Council 'A Bill to prevent Party Processions and certain other public exhibitions in the colony of New South Wales'.[21] At that time New South Wales included the Port Phillip and Moreton Bay settlements.

The bill was the work of the Irish-born attorney general and prominent Catholic John Hubert Plunkett. He modelled his bill on similar legislation passed by the Westminster parliament in 1832 prohibiting Orange processions in Ireland.[22] The *Sydney Morning Herald* praised the object of the bill but complained it was too broad as it captured inoffensive organisations such as total abstinence and temperance societies.[23] An amended bill was prepared. It confined the prohibition to religious and political assemblies and processions in which the participants carried weapons or:

> publicly exhibited any banner, emblem, flag, or symbol the display whereof may be calculated to provoke animosity between Her Majesty's subjects of different religious persuasions or who shall be accompanied by any music of like nature or tendency.

The amended bill satisfied the press and council members who had advocated on behalf of the temperance societies. The legislation, which included a three-year sunset clause, received the governor's assent on 27 October 1846.[24]

The new act faced its first test with Sydney's St Patrick's Day celebrations the following year.[25] On that day the St Patrick's Total Abstinence Society assembled as usual at St Patrick's Hall, Church Hill, from where, accompanied by their banners and band, they

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[19] *Port Phillip Gazette and Settler's Journal* 15 July 1846, pp. 2, 3; *Courier* (Hobart) 1 August 1846, p. 4 *; Advocate* 15 August 1896, p. 7.
[20] *Melbourne Argus* 4 August 1846, p. 4.
[21] *Sydney Morning Herald* 8 October 1846, p. 2.
[22] 2 & 3 William IV c. 118; *Sydney Morning Herald* 16 October 1846, p. 2. The Chief Secretary for Ireland Edward Stanley on presenting the 1832 bill to parliament explained: 'The object of his Bill was not to fetter the manifestation of political opinion in any way whatever. His Bill was directed against party processions connected with religious subjects, and calculated to maintain and prolong religious animosities, which moved with banners exciting angry feelings, and which were not unfrequently armed, ready to meet the conflicts they provoked.' (HC Deb 14 June 1832 vol 13 cc717-28).
[23] *Sydney Morning Herald* 14 October 1846, p. 2. These societies registered their own protest with petitions to the legislature (*Sydney Morning Herald* 16 October 1846, p. 2.).
[24] 10 Vic. No. 1. It was notified in the *New South Wales Government Gazette* 27 October 1846, p. 1.
[25] Cf. the situation regarding the UK act on which the NSW act was based: 'In practice, if not intent, the Party Processions Act had only been directed against Orange marches' (Annie Tock Morrisette, 'Preventing the Parade: The Party Processions Acts in Ireland and Canada', *American Review of Canadian Studies*, Vol. 48, No. 2, 2018, pp. 110-124, p.117). See also Maddox, 'Melancholy Record', pp. 250-251.

processed to Macquarie Street, marching back to St Patrick's church to celebrate solemn high mass.[26]

Although a Catholic and an Irishman, Attorney General Plunkett was not impressed. He wrote to Father John McEncroe, one of the organisers of the celebrations, advising that he had been told that the procession was a party religious procession in violation of the act. He sought clarification as to its 'real character', warning that if there had been a breach of the act he would prosecute, adding 'I am convinced that the future peace of society depends upon its strict observance'.

In his reply to Plunkett's inquiry, McEncroe wrote that the St Patrick's day parade consisted of teetotallers and was thus neither religious nor political. He pointed out that a quarter of the St Patrick's Total Abstinence Society members were Protestants and that the Protestant Total Abstinence Society had been invited to participate. Plunkett responded that he disagreed with McEncroe as to the character of the procession, saying that it was not the nature of the society that concerned him but of the procession itself. He wrote that, as it had proceeded to the church for mass, 'it assumed the character of a religious procession'.[27]

Instead of testing the attorney's opinion in court, the society publicly expressed its regret for its unintentional infringement of the law and pledged to avoid any semblance of violating the act in future. This satisfied Plunkett, who did not prosecute. The *Sydney Chronicle*, a Catholic newspaper that had approved the legislation when passed, protested that it was 'a direct infringement upon the religious liberty of the people of this colony to whatever denomination they may belong'.[28] When in the following October the mayor of Melbourne relied on the act to prohibit members of the Independent Order of Oddfellows (a benevolent society) to march in procession with their banners and insignia, the *Melbourne Argus*, owned and edited by the Orangeman William Kerr, which had also originally approved the legislation, added its voice to the Catholic *Chronicle*'s criticism of the act.[29]

Notwithstanding the belated dissatisfaction with the act's application, it was renewed in 1849 for five years. This represented a compromise between those who wanted the act to lapse and those, including Plunkett, who wanted to extend it to all processions.[30] By the time the five-year period expired, Victoria had separated from New South Wales and responsible government had been granted to both colonies.[31] The outgoing Victorian Legislative Council extended the act until it could be dealt with by the new parliament, which initially extended it indefinitely before incorporating the Plunkett prohibition in s

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[26] *Sydney Chronicle* 20 March 1847, p. 2.
[27] The correspondence was published in the *Sydney Chronicle* 3 April 1847, p. 3.
[28] *Sydney Chronicle* 3 April 1847, p. 2.
[29] *Melbourne Argus* 5 October 1847, p. 2.
[30] The continuation act (13 Vic. No. 10) extended its operation until 31 December 1855; *Sydney Morning Herald* 7 June 1849, p. 2; 14 June 1849, p. 3. The two positions reflected the debate at Westminster, but there the act was allowed to lapse. It was re-enacted in 1850 (3&4 Vict. c.2) following a clash between Orangemen and Ribbonmen (a Catholic agrarian organisation descended from the Defenders) at Dolly's Brae, County Down during an Orange march in 1849, when several Catholics were killed and many wounded on both sides. The act remained in force until repealed in 1871 (Morrisette, 'Preventing the Parade', pp. 118, 121).
[31] Victoria became a separate colony on 1 July 1851 and attained responsible government under the *Victoria Constitution Act 1855* (Imp.) that took effect on 23 November 1855 (*Age* 24 November 1855, p. 2). New South Wales attained responsible government under a Constitution Act that took effect on 24 November 1855 (*Empire* 26 November 1855, p. 4).

10 of a new public order act, the *Unlawful Assemblies and Party Processions Statute* of 1865.[32] Several re-enactments of that legislation then followed so that even today in Victoria the party-procession provisions remain in much the same form as Plunkett's act of 1846, notwithstanding several attempts at its repeal.

In New South Wales, the party processions legislation lapsed at the end of 1855 but was revived in January 1857 and made perpetual. In 1901 a new *Party Processions Prevention Act* was passed, repealing the earlier legislation but restating the prohibition on party processions in the same form as the 1846 act. In 1970 the 1901 act was repealed by the *Summary Offences Act*.[33] Today public assemblies in New South Wales are governed by Part 4 of that act, which does not include the provisions of Plunkett's act of 1846.

When Queensland separated from New South Wales in 1859, it inherited the 1857 revival act.[34] That act was repealed by the *Criminal Code Act 1899* but s 77 restated Plunkett's prohibition on party processions.[35] That section remained in Queensland's criminal code until 2008 when it was repealed; the explanatory memorandum noting that 'the provision is obsolete'.[36]

Plunkett's strict reading of the Party Processions Prevention Act was enough to prompt the abandonment of St Patrick's Day parades and Twelfth of July processions in the colonies for many years. But by the 1880s such parades had resumed.[37] Writing in 1884 in *The Chronicles of Early Melbourne*, Catholic journalist Edmund Finn, better known by his pen name Garryowen, said of the act:

> It was never more than a dead letter—dead as the defunct hobgoblin it was meant to exorcise. It was never required, for from the evil of the abortive celebration sprang one good result—viz., that no other July anniversary was bug-beared by an Orange procession.[38]

## Orange on Green: Stephen Street Outrage 1867[39]

The second incident of Orange on Green violence that I will discuss was the 'Stephen Street Outrage', which occurred on the night of Wednesday 27 November 1867 amidst the pomp and ceremony of the visit to Melbourne of Queen Victoria's second son Prince

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[32] The *Party Processions Continuation Act 1855* (19 Vic. No. 1); Continuation of Expiring Laws Act 1859 (22 Vic. No. 68); *Unlawful Assemblies and Party Processions Statute 1865* (28 Vic. No. 247).
[33] *Party Processions Prevention Act 1857* (20 Vic. No. 6); *Party Processions Prevention Act 1901* (Act No. 10, 1901); *Summary Offences Act 1970* (Act No. 96, 1970).
[34] Queensland became a separate colony with responsible government on 10 December 1859 (*Queensland Government Gazette* 10 December 1859).
[35] 63 Vic No. 9.
[36] Act No. 55 of 2008, s 16.
[37] In New South Wales, St Patrick's day processions resumed in 1880 after the Hibernian society marched from St Benedict's Catholic church, Broadway to Circular Quay without the authorities attempting to prevent them. Thereafter a parade became a regular feature of Sydney's St Patrick's Day celebrations. See Jeff Kildea, 'Celebrating St Patrick's Day in nineteenth-century Sydney', *The Dictionary of Sydney*, 2012.
[38] Garryowen, *Chronicles of Early Melbourne*, Vol 2, p. 687.
[39] The following narrative is taken from the various newspaper reports of the incident itself and of the several court proceedings that followed: *Age* 28 November 1867, p. 5; 29 November 1867, p. 4; 6 December 1867, p. 6; 13 December 1867, p. 6; *Argus* 27 November 1867, p. 1 (The Argus Supplement); 28 November 1867, p. 5; 6 December 1867, p. 6; 16 December 1867, p. 6; 20 December 1867, p. 1 (The Argus Supplement); 17 March 1868, p. 6; 18 March 1868, p. 1 (The Argus Supplement); 20 March 1868, p. 6 *Argus* 21 March 1868, p. 6; *Leader* 30 November 1867, p. 6.

Alfred, Duke of Edinburgh. He is mostly remembered for the attempt on his life the following March at Clontarf in Sydney. Alfred's visit was the first to the antipodean colonies by a member of the royal family. The burghers of Melbourne were keen to show their loyalty to the Crown and their admiration for the prince. They extravagantly decorated the city with bunting, decorative arches, and illuminations. An illumination, also known as a transparency, was a large painting depicting a scene that was backlit at night by gas lighting.

Among the adorned buildings was the Protestant Hall on the south-east corner of Stephen Street (now Exhibition Street) and Little Collins Street.[40] The Orange order had acquired the property and erected the hall following the fracas at the Pastoral Hotel in 1846 so they might have 'the means of holding their meetings and celebrating their festivals away from the reach of the unjust exercise of authority, and the lawless aggressions of a besotted rabble'.[41] For the prince's visit, members of the Orange order had mounted on the building's façade a transparency depicting as the centre piece William III crossing the Boyne. Britannia appeared on one side of the centre piece and Queen Victoria on the other, along with a bible and crown and the motto 'This we will maintain'. The word 'Welcome' was at the bottom of the display.

The *Argus* published an article giving a street-by-street description of the city's illuminations. Of the transparency on the Protestant Hall it observed, 'The picture in itself is harmless enough, but when it is known to be offensive to a large portion of the community it is to be regretted that it should be shown in connexion with an event to which it has no relation whatever'.[42] The *Age* declared, 'The exhibition of an illumination of such a decided party character was generally condemned as being in very bad taste and likely to provoke the animosities of a large portion of the Irish population'.[43] And indeed it did, as anyone with knowledge of the 1846 incident might have predicted. Even more so when one considers that the prince's visit took place at a time when Irish nationalism was once more on the move. Relatively quiescent since the Young Irelander uprising of 1848, it had entered a new violent phase in 1867 with a failed fenian rising in Ireland in March, the killing of a policeman in Manchester in September during the escape of two rebel leaders, and the execution in November of the rescuers, known as the Manchester Martyrs.[44] Many Protestants, especially those in the Orange order, feared that fenianism had reached Australian shores and had infiltrated the Irish Catholic community. This view would be reinforced by the assassination attempt in Sydney in March 1868.

The transparencies throughout the city were first illuminated on the night before the incident, attracting a large number of spectators into the city centre. According to the *Age*, a small number of boys and young men gathered in front of the Protestant Hall and made sarcastic remarks about the subject of the painting. A few began to throw stones at it causing slight damage. Threats that the image would be destroyed if it were lit up were met by counter threats of retaliation from the Orangemen. Fearing violence, the

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[40] Stephen Street became known as Exhibition Street when the Royal Exhibition Building opened in 1880. The city council officially changed the name on 5 December 1898 (*Argus* 6 December 1898, p. 10).
[41] Tas Vertigan, *The Orange Order in Victoria: Origins, Events, Achievements, Aspirations, and Personalities*, Loyal Orange Institution of Victoria, Melbourne, 1979, pp. 24-25.
[42] *Argus* 27 November 1867, p. 1 (The Argus Supplement).
[43] *Age* 28 November 1867, p. 5.
[44] Keith Amos, *The Fenians in Australia 1865-1880*, New South Wales University Press, Kensington, N.S.W., 1988, p. 38.

authorities unsuccessfully requested the Orange order to remove the exhibit. They could not order the transparency be removed as it was not being displayed during a procession or an assembly and thus fell outside the Party Processions Act. On that Tuesday night the threat of destruction was not carried out and, apart from some stone throwing and verbal abuse, the night passed off harmlessly.

The next night, as dusk turned to dark, a crowd began gathering under the awnings of the Eastern Market in Stephen Street across the road from the Protestant Hall. By eight o'clock, when it came time to illuminate the image a large crowd mostly youths, had assembled. Lusty cheers and groans emanated from the assembly, mostly directed at the image of King Billy and the Orangemen. Soon, some in the crowd began singing 'The Wearing of the Green', an Irish nationalist song lamenting the repression that followed the defeat of the 1798 rising. In that rising members of the Society of United Irishmen had adopted green as their colour. When the song finished, a shout was heard, 'Burn the damned rubbish!' and a shower of stones hit the transparency.

Almost immediately, several shots were fired from in front of the Protestant Hall and from an upper storey window nearest to Little Collins Street. Panic gripped the crowd. People began running in all directions away from the building. Left lying on the ground was a young boy, William Cross, aged 13, blood oozing from a wound to his upper right chest where he had been shot through the lung. When hit, he had been standing with his hands in his coat pockets about 20 metres away from the young men who were singing and throwing stones. Several others were also wounded by bullets and ricochets but less severely. Police, arriving from the Russell Street barracks, attended the wounded and picketed the building to prevent the escape of those within. One man, Joseph Hines, scaled the back wall of the property and was seen running along Little Collins Street shouting 'Hurrah for King Billy'. He was apprehended in the nearby Blue Bell Hotel.

After entering the building police found several firearms in a closet under the stairs, which they seized. All those inside denied any knowledge of the affair, apart from hearing the shots fired, and denied any knowledge of the guns. They were taken to the Swanston Street lock-up and charged with shooting with intent to kill.

Some in the crowd remained in the vicinity of the Protestant Hall, occasionally breaking into song. Others marched to the lockup and attempted to storm the building. Police stood guard outside keeping the mob back. They were soon joined by mounted troopers. Eventually, the mob dispersed singing 'The Wearing of the Green' as they left.

By one o'clock Stephen Street had returned to its usual calm. At the hospital young William Cross lay fighting for his life. Others admitted to the hospital were Michael Mahon, an 11-year-old boy who was shot in the left breast, John Cain, wounded in the right side of the head, and John Youlden, slightly wounded by a shot to the knee. After being treated for their injuries, the three were discharged from the hospital and allowed to return to their homes. Another man, Henry Bates, who was standing near young William, was hit in the wrist when a second shot was fired in their direction. Bates was only slightly injured and did not require hospital treatment. William was not so fortunate, eventually he succumbed to his wounds on the evening of Friday 13 December 1867, one day before his 14th birthday.

If the gunmen who fired from the Protestant Hall intended to kill Irish fenians, they would have been disappointed. William Cross was from an English Protestant family

that had emigrated in 1855.[45] William's funeral took place on the Sunday after his death. It attracted more than a thousand mourners. According to the *Argus*, it 'presented one of the most melancholy and imposing spectacles which Melbourne has witnessed since the funeral of Burke and Wills'. The officiating clergyman was Reverend Henry Handfield of St Peter's Anglican church, Eastern Hill. According to a report in the *Argus*, the mourners included, in addition to William's family and his school mates, 'a few of the prominent members of Melbourne Society' as well as 'a considerable body of Roman Catholics [and a] large body of Orangemen … all uniting so far as they could to show the sympathy they felt with the bereaved parents'.[46]

William's death meant that the charges against the men arrested at the Protestant Hall were upgraded from shooting with intent to kill to murder. The day after William died the coroner convened an inquest at which the jury, after a three-day hearing, returned the following verdict on 19 December 1867:

> We find that the boy Cross came by his death from a gunshot wound received by the discharge of firearms discharged from the Protestant hall, and we find that the following persons were present, and were guilty of firing: James Girvan, Joseph Hines, John Mitchell, William Mitchell, James Mitchell, and Samuel Clarke.[47]

The six men were committed for trial at the next criminal sittings of the Supreme Court and released on bail. Two months later, a seventh accused, Clarke's 16-year-old son, William was also committed for trial on the same charge. The trial began on Monday 16 March 1868 before Mr Justice Redmond Barry and a jury of twelve. An Anglo-Irishman, Barry is best remembered as the judge who presided over the trials of the Eureka Stockade rebels and over the trial of Ned Kelly, whom he sentenced to death.

As might be expected, the evidence of the eyewitnesses to the shooting were inconsistent: how many shots were fired, from where did they emanate, and in what sequence did it happen. In an era before the use of forensic techniques such as fingerprinting, ballistics, gunshot residue testing, and DNA analysis it was always going to be difficult beyond reasonable doubt to match any of the accused with the shooter who killed William Cross. It is not surprising, therefore, that at the end of the five-day trial the jury took only a half hour to reach a verdict of not guilty against all accused.

If the judicial system was unable to provide legal accountability for the death of William Cross due to lack of evidence, public opinion, as measured by press reports, was less constrained. Newspaper editorials expressed the shame many felt at their city's display of civil disturbance during the visit of the prince – 'a stain upon our character as a people', as the *Argus* lamented. There was also a sense of disappointment, even apprehension, that the troubles of the old world which the colonists thought they had left behind might have taken root in the new where 'men of all countries and of all religious denominations are combining to forget their differences of race and creed'.[48]

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[45] Genealogical details are from Ancestry.com and Find a Grave. The shipping records show the family as 'Roman Catholic'. However, William attended St Peter's Anglican school Eastern Hill and his funeral service was conducted by Rev. Harry Handfield of St Peter's.
[46] *Argus* 16 December 1867, p. 4; *Age* 16 December 1867, p. 5.
[47] *Argus* 20 December 1867, p. 1 (The Argus Supplement)
[48] *Argus* 29 November 1867, p. 4.

Regretting the revival of 'the old, miserable and now meaningless rancour between Orangemen and Ribbonmen', the *Age* declared, 'We side with neither because both are wrong, and for the occurrences of Wednesday we hold that the two factions are severally responsible'. While describing the attack upon the decorations of the Protestant Hall as 'reprehensible', the *Age* made clear to whom the principal blame should be attributed:

> [I]t appears that the Orange party are primarily responsible for the outbreak by the exhibition of a transparency which … carries with it offence to a large section of the Roman Catholic community. … It is difficult to understand what object short of sheer mischief, prompted by densest ignorance, can induce the inciting of religious feuds in this country.[49]

The *Argus* was more direct:

> That the occasion of the Duke of Edinburgh's visit to this colony should have been seized upon by a few rabid fanatics in order to irritate and insult the Irish Roman Catholics of Victoria, shows the extent to which loyalty, patriotism, and Christian charity are subordinated in the minds of the more violent Orangeman to the gratification of sectarian rancour and the indulgence of national animosities.[50]

In a later commentary on the affair, the *Argus* stated that apart from the shooting, the one party was as much to blame as the other in the affair: 'Exhibiting an offensive flag by one party was no worse than pelting it with stones by the other. Until the guns were fired … the two parties were equally culpable'.[51]

However, referring to the 'little armoury of weapons' found inside the Protestant Hall, the *Argus* went where the judicial system dared not go:

> It looks like a premeditated outrage. It suggests the painful hypothesis that the obnoxious transparency was intended to provoke some manifestation of angry feeling on the part of a section of the public and that the two loaded rifles and the pistols were deliberately provided to fire upon the assailants from the covert in which the cowardly occupants of this orange fortress had lodged themselves.[52]

The *Leader* took a similar approach to the presence of the guns, contending that the Orangemen brought weapons to the Protestant Hall anticipating that the transparency, if illuminated, would be attacked: 'The presence of the firearms shows what their determination was'.[53] However, the *Leader* also took a swipe at the Catholic clergy, claiming they had 'abstained from showing proper courtesy and respect to the Queen's son'. It said it did not mention this circumstance 'as a palliation of the outrage' but to show that Catholic resentment had causes other than the offensive display at the Protestant Hall:

> Catholicism in Victoria, so far as it is represented by its clergy, is not loyal, and the clergy by their foolish bigotry bring unmerited suspicion on Irish subjects. In view of recent occurrences in England and Ireland, it is difficult to separate a

[49] *Age* 29 November 1867, p. 3.
[50] *Argus* 29 November 1867, p. 4.
[51] *Argus* 6 December 1867, p. 4.
[52] *Argus* 29 November 1867, p. 4.
[53] *Leader* 30 November 1867, p. 17.

> certain section of the Irish nation from sedition. In Ireland and even in America Fenianism may be a very natural manifestation of popular feeling. Unquestionably, Ireland has suffered much at the hands of Englishmen, and a spirit of rebellion is consequently a reasonable outcome. But we strongly object to the development of Fenianism here. That it has taken root and flourishes is undeniable. If it were not so, the decorations at the Protestant hall would not have excited so much rancour.[54]

Nevertheless, it tempered those remarks by observing that the great body of Catholic Irishmen were 'as loyal as any subjects of her Majesty, and those who are not are harmless'. It attributed the harm to 'those who use their loyalty as a means of gratifying religious and political rancour'. In that regard it commented:

> The proceedings of the Orangemen were quite inexcusable. A general illumination should not have been seized as an occasion to flaunt in the faces of Irish Catholics an insulting emblem. What have we, in this country, to do with William the Third's passage of the Boyne? No association is justified in flaunting before any section of this mixed community an emblem of national humiliation. To Catholic Irishmen the picture has a deep and bitter significance, and those displaying it intended that it should have.[55]

As to the right of the Orange order to display such an emblem, the *Leader* noted:

> No doubt the lodge had a perfect right to hang out their defiant transparency, but it is something like the right of the Legislative Council to throw out an appropriation bill – an extreme right – the exercise of which is productive of unmitigated wrong.[56]

Even Prince Alfred's chaplain blamed the Orangemen for inciting the riot. Reverend John Milner, who accompanied the prince on his Australian visit, wrote in his reminiscences of the tour:

> Nothing can excuse the Orangemen for having in the first instance exhibited a party device, which they knew would provoke retaliation, and lead to a breach of the peace. Amongst the numerous causes which may have combined to produce Fenianism, it becomes a question whether the constant irritation and annoyance inflicted on their enemies by Orangemen in their noisy celebrations of the "Battle of the Boyne" for the last 200 years, have not had a much greater effect than all other grievances—fancy or real—put together. It is scarcely possible to conceive that even less excitable people than the Roman Catholic population of Ireland would tamely submit to incessant taunts and most provokingly contrived devices and emblems to remind them of defeat and subjection.[57]

The specific incidents I have discussed tonight were but two of several that occurred during the nineteenth and early twentieth centuries in Australia. In my research, I have documented at least 20 incidents of serious sectarian violence between 1843 and 1922 across all six Australian colonies or states. I have singled out these two incidents in Melbourne because people were shot and killed, just as we recently witnessed at Bondi,

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[54] *Leader* 30 November 1867, p. 17.
[55] *Leader* 30 November 1867, p. 17.
[56] *Leader* 30 November 1867, p. 16.
[57] Rev. John Milner and Oswald W. Brierly, *The Cruise of HMS Galatea Captain HRH the Duke of Edinburgh KG in 1867-1868*, W.H. Allen and Co., London, 1869, pp. 246-247.

though, as I have stated, the scale is not the same. In many of the other incidents I have researched, shots were fired, rocks were thrown, rioting took place, or people were severely injured.

For the most part, the sectarian violence occurred in the context of Catholics of Irish descent reacting to what they regarded as provocations either by Orangemen celebrating the anniversary of William III's victory at the Battle of the Boyne or by ultra-Protestant preachers denigrating in public the beliefs and practices of the Catholic church, accompanied by taunts such as 'the heathenism of popery', 'the whore of Babylon', and 'the antichrist' in reference to the church of Rome.[58] The two Melbourne incidents I have singled out were of the first type. An example of the second type is the Hyde Park riots around St Patrick's Day in 1878. In that case the ultra-Protestant preacher Reverend Daniel Allen, well known for his fiery anti-Catholic rhetoric at his open-air services at the southern end of Hyde Park, was chased out of the park. An estimated 5000-strong crowd pursued him as he made his way to his home in Castlereagh Street. According to a reporter for the *Evening News*, 'Castlereagh Street for nearly a quarter of a mile was thronged by one dense multitude and Liverpool Street much the same'. When men wearing orange neckties were spotted in the crowd, those wearing green attacked them with brickbats. Lest you think that Sydney's riot earlier this month was a new low for the city, I should add that, when the police arrested one of the brickbat throwers and began dragging him away, the scene turned nasty as the mob turned on the police. It was only when mounted police with sabres moved in that the mob dispersed. As I say, there is nothing new under the sun.

## Lessons to be Learned

So, what lessons can we take from these past incidents of ethno-religious violence?

When I was at school we had a saying, 'Sticks and stones may break my bones but names will never hurt me'. But if these incidents teach us anything, it is that my schooldays saying was not true. Names can and do hurt. That, of course, does not excuse those who take the law into their own hands to vindicate their offended ethnic, religious, or other identities. In the disturbances we have discussed, no one in the cool light of day suggested otherwise. As we have seen, the newspapers describing the fatal incidents in Melbourne condemned both sides while singling out the Orange provocateurs for specific blame.

Fortunately, sectarianism between Catholics and Protestants has all but disappeared from Australian society. Nevertheless, ethno-religious conflict has not. Although images of William III no longer have 'a deep and bitter significance' for Australians of Irish descent and terms such as 'the heathenism of popery', 'the whore of Babylon', and 'the antichrist' are no longer publicly hurled at Catholics, offensive or injurious language, which we now call 'hate speech', continues to exist, largely directed at people of other identities. And sometimes, as we have seen in recent years, such perceived offence has led to violent reactions not dissimilar to those I have mentioned. For example, on 15 September 2012 a protest in Sydney against an anti-Islamic film *Innocence of Muslims* turned violent resulting in injuries to police and protesters.[59]

[58] Of the twenty sectarian riots, thirteen were of the latter type, six were of the former, and one was related to the 1843 elections for the Legislative Council. A summary of each is provided in the Appendix.
[59] 'Sydney anti-Islam film protests', https://en.wikipedia.org/wiki/Sydney_anti-Islam_film_protests.

Freedom of expression is not an abstract concept, nor should it be regarded as an absolute right. And sometimes the exercise of a right may produce an unmitigated wrong. In a free society such as ours there is a difference between liberty and licence. As we have seen in the two Melbourne examples, if a subcommunity is sufficiently affronted by what is said or displayed, then its members will react, often with unjustifiable fury, leading to a spiral of violence that may result in fatal consequences. As much as we would wish otherwise, that is the reality given the nature of fallen humanity.

Ultimately, it falls to the law makers and those who administer the law to determine where lies the line between liberty and licence and, if that line has been or is likely to be crossed, to implement such measures as are necessary in the particular circumstances, not to assuage offended feelings, but to preserve the peace and social harmony of the community. Failure to act is a dereliction of the duty those authorities owe to the community.

To be successful such measures must be targeted at the particular affront that foreseeably will provoke the backlash that will threaten the community's peace and social harmony. The measures must, however, be carefully drafted to avoid loopholes such as was exposed by the Stephen Street outrage of 1867. In addition, the chosen measures must be rigorously enforced. As Plunkett remarked regarding his party processions legislation, 'I am convinced that the future peace of society depends upon its strict observance'. Furthermore, the measures should remain in place only so long as the threat remains. As we have seen with Plunkett's legislation, the measure will in time – be that weeks, months, or years – become a dead letter, or in Garryowen's colourful expression, 'dead as the defunct hobgoblin it was meant to exorcise'. It can then be repealed or allowed to lapse.

## Conclusion

Seemingly intractable issues that once divided Catholics and Protestants in Australia, especially over Ireland's persistent demands for self-government and Catholic calls for state aid for their schools, have been resolved. No longer do they divide Catholics from Protestants as they once did. No longer are Orange and Green in conflict in Australia. But other debates and conflicts in the homelands of more recent immigrants have taken their place, once more threatening our aspirations for a peaceful and harmonious Australia. Looking through history's rear vision mirror at our sectarian past and understanding that we have been down this road before and have managed to come through provides reason for hope that we can do so again.