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Editorial

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Editorial

Eras was founded in 2001 with the intention of facilitating interdisciplinary dialogue among postgraduate and early career researchers working across all areas of history, archaeology, theology and Jewish Civilization. In 2010 our scope further expanded to include the disciplines of international studies and philosophy, particularly when such work also contains significant historical content, and in 2014, the layout underwent a redesign under the editorial auspices of Julian Koplin. The seventeenth edition of *Eras* fully reflects this vision for the journal.

Jenny Smith's contribution to this issue offers a reappraisal of Gottschalk of Orbais's skilful defence of accusations of heresy in ninth-century France. Clare Diamond examines tension between western and eastern views on authenticity in the art market. Tal Meretz observes how the proscribed act of faith-healing unofficially contributed to conversion in nineteenth-century Mormonism. Stuart Dawson embarks on an epic defence of the much maligned Constable Fitzgerald at the heart of the Ned Kelly mythos. Anthea Skinner examines the post-war formalisation of music and musicianship in the Australian Military.

In addition to these refereed articles, this issue of *Eras* contains a number of book reviews. Reminding us of the seventieth anniversary of the bombing of Nagasaki, Gwyn McClelland's thoughtful essay reviews a new translation of Yuichi Seirai's *Ground Zero, Nagasaki: Stories*. The shorter reviews likewise draw on the reviewers' areas of expertise to not only summarise and critique the work being considered, but to also offer fresh insights.

Appended to this edition is a special themed issue of *Eras*, dedicated to the 150th anniversary of the end of the US Civil War.

Eras would not be able to exist today if not for the generous help of many disparate individuals. The editorial committee for this issue of *Eras* compromised John D'Alton, Laura Donati, Caleb Hamilton, Julian Koplin, Rosa Martorana, Sarah Ricketts, Stephanie Rocke and Kathleen Shaw. I would like to offer our gratitude to the numerous publishers that have provided us with review copies of their publications, the authors that have submitted manuscripts for consideration, and the academics who recommended or acted as peer reviewers, without whose anonymous contribution *Eras* would not be possible.

Stephen Joyce
Managing Editor

The Rebellious Monk Gottschalk of Orbais: Defining Heresy in a Medieval Debate on Predestination

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***Abstract**: Frankish ecclesiastical leaders imprisoned a rebellious monk in ninth-century Francia named Gottschalk of Orbais for teaching what they considered to be the heretical doctrine of predestination, whereby God chose some individuals to be saved and others to be damned. An examination of Gottschalk's writings reveal that he frequently supported his arguments on predestination with references to texts written by patristic fathers of the fifth and sixth centuries. While most scholarship on Gottschalk has focused on his citation of Saint Augustine of Hippo as support for his predestination arguments, this approach largely ignores both his use of a wider variety of patristic authorities as well as one of his even more fundamental uses of patristic texts: defining heresy. This essay explores Gottschalk's use of fathers aside from Augustine in his effort to formulate a definition of heresy. It demonstrates how Gottschalk defined a heretic according to the criteria established by non-Augustinian patristic models while simultaneously arguing that he himself fit none of the criteria in question and thus did not deserve the heretical label with which he had been branded. Thus, it is argued that Gottschalk used a variety of patristic fathers who both defined heresy and supported predestination in attempt to demonstrate that an orthodox definition of heresy and defense of predestination were not incompatible.*

***Keywords**: Gottschalk, heresy, predestination, Frankish Church, Augustine, patristics*

INTRODUCTION

The 840s and 850s in medieval Francia witnessed a prolonged and vehement controversy over the nature of divine predestination and grace. Frankish ecclesiastical leaders sought to punish the rebellious monk Gottschalk of Orbais who argued that God

* I would like to thank my two anonymous reviewers for their helpful comments, as well as my thesis advisor, Sebastian Bartos, for his supervision of this project.

had chosen some individuals for eternal life and others for eternal damnation, a position that he argued was entirely orthodox according to western Catholic tradition. His theological opponents disagreed, however, bestowing on him the dreaded, though ambiguous, title of 'heretic.' To this charge he responded by reversing the accusation, thus labeling his opponents as the true heretics. As becomes evident, the Carolingian concept of heresy lacked definition, instead remaining a fluid and often ambiguous term used by theological opponents to accuse one another of departure from western Catholic orthodoxy. As recent scholarship by Matthew Gillis noted, the label of heretic, while often reserved for foreigners who departed from orthodoxy, remained particularly notable when applied instead to native Carolingians within the Frankish Empire.[1] Christine Ames similarly asserted the peculiarity of accusations of heresy, rather than more general ecclesiastical efforts to reform an errant individual's beliefs, during the Carolingian focus on religious harmony, unity, and orthodoxy amidst the turbulent dynastic conflicts and political fragmentation of the ninth century.[2] However, in many ways it was the Carolingian effort to produce unity in the midst of disorder that led to its notable effort to guard orthodoxy and punish those outside its realm, identified as heretics. Not least among the figures to whom this label of heresy was applied remained Gottschalk, who subsequently attempted to reverse the dreaded label, in an extensive debate over the nature of grace, salvation, and free will.

In seeking to clarify the meaning of heresy and thus present his own ideas as entirely outside of its realm, Gottschalk spent a great deal of effort defining, labeling, and identifying heresy in his writings on the polemical topic of predestination. Acquaintance with his predestination writings further reveals that perhaps the chief model to which he looked to shape his views on heresy remained patristic authors who likewise defined heresy in their own writings. Extant scholarship has largely approached Gottschalk's works by focusing on his frequent citation of Saint Augustine as a means to support his theory of predestination. However, there remains a substantive gap in understanding how Gottschalk appealed to patristic literature aside from Augustine to both provide a more comprehensive and explicit patristic stance on predestination as well as to define what composed those who departed from this understanding of orthodox doctrine and thus deserved the label of heretic. Analysis of Gottschalk's choice of patristic models to define heresy within his predestinarian writings reveals that he used a diversity of patristic authors who supported predestination in their own writings including not only Saint Augustine but also Pope Gregory I, Fulgentius of Ruspe, Cassiodorus, Basil of Caesarea,

[1] Among those labeled heretical from outside the bounds of the Frankish Empire, Spanish Adoptionists as well as Byzantine Iconoclasts served as notable examples during the ninth century. For an analysis of the contrasting label of heresy among foreigners and natives in the Carolingian world, see Matthew B. Gillis, "Gottschalk of Orbais: A Study of Power and Spirituality in a Ninth-Century Life" (PhD Diss., University of Virginia, 2009), 21-22.

[2] Christine C. Ames, *Medieval Heresies: Christianity, Judaism, and Islam* (Cambridge: University of Cambridge Press, 2015), 127.

Gregory of Nazianzus, and John Chrysostom, among others. This essay thus seeks to explore Gottschalk's citation of patristic fathers aside from Augustine in formulating his definition of heresy. It argues that Gottschalk eloquently manipulated the predestination arguments of a wide variety of non-Augustinian patristic fathers who both defined heresy and supported predestination in his attempt to demonstrate that an orthodox definition of heresy and defense of predestination were not incompatible. Although these additional patristic authors were often just as ambiguous as Augustine on the topic of the predestination of the damned, Gottschalk deftly positioned their arguments in such a way as to portray them as supportive of his own view of predestination.

Analysis of Gottschalk's stance on the topic of predestination reveals the complexity inherent in identifying conceptions of orthodox predestination versus heretical predestination in ninth-century Francia. Although Saint Augustine's assertion that God had bestowed the gift of eternal life on certain individuals based upon his divine prerogative generally remained within the realm of acceptably orthodox thought, the idea that God had actively chosen not to extend this gift to others ventured into the realm of heresy. Therefore, Gottschalk's argument that God had not only chosen to save some individuals but also to damn others stood as testament to his ecclesiastical opponents that he had assuredly departed from an orthodox understanding of predestination and instead adopted a heretical viewpoint that could be supported by neither biblical nor patristic citations, according to his detractors.[3] In response to the accusation that there existed a dichotomy between an orthodox understanding of predestination and his own heretical view, Gottschalk assumed the task of framing his view of predestination as orthodox according to ecclesiastical tradition by eloquently manipulating specific patristic texts, however ambiguous on the topic of predestination, to portray them as supportive of his view of predestination of both the righteous and the wicked.

This technique, however, was not unique to Gottschalk, as many other participants in the debate, such as Hincmar, Rabanus, Prudentius, and others, frequently attempted to define heresy on preconceived terms that exonerated their own beliefs. Furthermore, this technique was also not unique to the predestination debate in the ninth century, but also remained a facet of other Carolingian theological debates such as the iconoclast, adoptionist, and Eucharistic controversies, the details of which extend beyond the realm of this paper. In each of these debates, however, Carolingian participants sought to define heresy on their own terms and in ways that eloquently represented patristic and

[3] Hincmar, *Letter to the Monks and Simple Folk of his Diocese* (*Epistola ad reclusos et simplices suae dioceseos*), in *Oeuvres théologiques et grammaticales de Godescalc d'Orbais* (*Oeuvres*), edited by Cyril Lambot (Louvain: Spicilegium Sacrum Lovaniense, 1945), 8-10; trans. in Genke and Gumerlock, *Gottschalk and a Medieval Predestination Controversy: Texts Translated from the Latin* (Milwaukee: Marquette University Press, 2010), 169-172.

ecclesiastical tradition to their own advantage. Thus, Gottschalk's use of this technique represents a wider Carolingian pattern of textual manipulation and self-representation.[4]

Born into a noble Saxon family, Gottschalk of Orbais came of age in a monastery at Fulda in Saxony after being dedicated as a child oblate.[5] Years later, Gottschalk finally obtained permission to be released from his vows, only to find himself in the monastery of Corbie in northern Francia, where he studied texts written by the patristic fathers Augustine, Gregory, and Isidore, which in part explains his later familiarity with their works.[6] According to Matthew Gillis, it was at Corbie where he "developed a reputation as a *magister* for his teachings on predestination."[7] After visiting Hautvillers, which later became his location of imprisonment, he relocated to a monastery in Orbais.[8] He then left Francia around 836 to journey to Italy where he began to spread "teachings quite contrary to our salvation, especially on the subject of predestination."[9] In a letter to Noting, the bishop of Verona, written in 840, Rabanus Maurus, Archbishop of Reims, lamented the spread of "the heresy that some people are wickedly defending concerning the predestination of God."[10] After his stint in Italy, Gottschalk traveled to the Balkans, where he served as a missionary and spent time in Dalmatia.[11]

Ecclesiastical leaders soon summoned Gottschalk to Mainz after his return to Francia around 848 where he appeared before a synod presided over by Louis the German to determine his punishment for theological error. Here Gottschalk professed a confession of faith before the bishops in which he openly avowed his belief in predestination.[12] After witnessing Gottschalk's refusal to change his beliefs, Rabanus sent him to Orbais to be under the jurisdiction of Hincmar, Archbishop of Reims, who then ordered Gottschalk to appear at the Synod of Quierzy the following year where he condemned Gottschalk for his "incorrigible obstinacy" in teaching the doctrine of predestination. Hincmar further

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[4] For more on this Carolingian pattern of defining heresy within other ninth-century debates, see Ames, *Medieval Heresies*, 128-130. For a thorough discussion of the theological contours of these theological debates within a wider Carolingian context, see Chazelle, *The Crucified God in the Carolingian Era: Theology and Art of Christ's Passion* (Cambridge: Cambridge University Press, 2001).

[5] Hatto of Fulda, *Letter to Otgar* (*Epistola ad Otgarium*) (*Monumenta Germaniae Historica*, Epist. 5:529) trans. Victor Genke and Francis X. Gumerlock, *Gottschalk and a Medieval Predestination Controversy: Texts Translated from the Latin* (Milwaukee: Marquette University Press, 2010), 11, 15-16.

[6] David Ganz, *Corbie in the Carolingian Renaissance* (Singmaringen: Thorbecke, 1990), 66.

[7] Gillis, "A Study of Power," 2.

[8] Genke, *A Medieval Predestination Controversy*, 19.

[9] *Annales Bertiniani*, *Scriptores Rerum Germanicarum* (*SRG*) 5, (Hanover, 1883); trans. Janet L. Nelson, ed. and trans., *The Annals of St Bertin: Ninth-Century Histories* Volume 1 (Manchester: Manchester University Press, 1991), 67.

[10] Rabanus Maurus, *Letter to Noting* (*MGH*, Epist. 5:428) trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 165.

[11] *Annales Bertiniani*, trans. Nelson, *Annals*, 67.

[12] Gottschalk, *Confession of Faith* (*Chartula suae professionis ad Rabanum episcopum*), in *Oeuvres*, 38; trans. Genke and Gumerlock, *Gottschalk and a Medieval Predestination Controversy*, 68.

ordered that Gottschalk be imprisoned at Hautvillers, where he spent the rest of his days until his death in 868.[13] At the time of his death, he remained an excommunicant.[14]

GOTTSCHALK IN HISTORIOGRAPHICAL MEMORY

Dom Germain Morin's 1931 discovery of a significant number of Gottschalk's works in the Bongars library in Bern, at which time he published his article, "Gottschalk retrouve" in *Revue Benedictine*, radically altered twentieth-century historiography on Gottschalk.[15] Although a large portion of current scholarship on the rebellious monk occurred after Morin's discovery, there exist pre-twentieth-century contributions deserving of mention, notably G.F. Wiggers's "Schicksale de augustinische Anthropologie, Funfte Abtheilung: Der Munch Gottschalk", in which he rejected any tendencies to view Gottschalk as an early church reformer, preferring instead to view him as one trying to defend what he considered the correct interpretation of Augustine in order to preserve the purity of patristic theology, rather than seeking to rebel against the Catholic Church.[16]

In the twentieth century, the multitude of angles and approaches to understanding the multifaceted nature of Gottschalk's life have led to a diverse array of historiography on Gottschalk. Among notable post-1931 contributions, there exist analyses of Gottschalk's poetry by historians such as Norbert Fickerman, Helen Waddell, J.E. Raby, Bernhard Bischoff, Jean Jolivet, Gillian R. Evans, Peter Godman, Otto Herding, Marie-Luise Weber, and H. Grabert.[17] Historians such as Maieul Cappuyns, E. Aergerter, Eleanor

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[13] Rabanus Maurus, *Letter to Hincmar on the Council of Mainz* (*Epistola VIII Synodalis, ad Hincmar archiepiscopum Rhemensem de Gothescalco*), Lambot, *Oeuvres*, 6; and Hincmar, *Synod of Quierzy* (*Ecclesiastica sententia in pertinacissiumum Gotescalcum*) trans. Genke and Gumerlock, *Gottschalk and a Medieval Predestination Controversy*, 167-169.

[14] Matthew B. Gillis, "Noble and Saxon: the meaning of Gottschalk of Orbais' ethnicity at the Synod of Mainz, 829," in *Ego Trouble: Authors and their Identity in the Early Middle Ages*, ed. Richard Corradini, et. al. (Vienna: Austrian Academy of Sciences, 2010), 197.

[15] Dom G. Morin, "Gottschalk retrouve," *Revue benedictine* 43 (1931): 303-312.

[16] G.F. Wiggers, "Schicksale de augustinische Anthropologie, Funfte Abtheilung: Der Munch Gottschalk," *Nieder Zeitschrifte fur die historische Theologie* (1859): 471-591.

[17] Norbert Fickerman, "Wiederekannte Dichtungen Gottschalks," *Revue Benedictine* 44 (1932): 314-321; Helen Waddell, *The Wandering Scholars of the Middle Ages* (London, Constable, 1932), 63; Frederic J.E. Raby, *A History of Latin-Chrisitan Poetry* (Oxford: Clarendon, 1953); Bernhard Bischoff, "Gottschalk Lied fur den reichenauer Freund*," Mittelalterliche Studien: Ausgewahlte Aufsatze zur Schrifkunde und Literaturgeschichte* 2 (1967): 26-34; Jean Jolivet, *Godescalc d'Orbais et la Trinite: La Methode de la theologie a l'epoque carolingienne* (Paris, 1958); Gillian R. Evans, "The Grammar of Predestination in the Ninth Century," *Journal of Theological Studies* 33 (1982): 134-145; Peter Godman, *Poetry of the Carolingian Renaissance* (University of Oklahoma Press, 1985); Otto Herding, "Uber die Dichtungen Gottschalks von Fulda" in *Festscrift Paul Kluckhohn und Hermann Schneider gewidment zu ihrem, 60, Geburtstag* (Tubingen: Mohr, 1948); Marie-Luise Weber, *Die Gedichte des Gottschalk von Orbais,*

Duckett, M.L.W. Laistner, Martina Stratmann, and John Marenbon analyzed the predestination conflict, noting in particular the influence of Gottschalk's theological allies and opponents in forming Carolingian views on heresy and orthodoxy.[18] Historian Jean Devisse published an extensive analysis of Gottschalk's perhaps most prominent ecclesiastical enemy, Archbishop Hincmar while Jean Jolivet and George Tavard analyzed Gottschalk's opposition to Hincmar in the Trinitarian debate of the ninth century.[19] In 1966, German historian Siegfried Epperlein argued that Gottschalk was representative of Saxon dissent against the Frankish church. Epperlein contended that his resistance to the feudalization policy employed by the Frankish church during the ninth century sparked a mass following that opposed the church's attempts to implement its feudal policy.[20]

Regarding Gottschalk's use of patristic texts in his predestination arguments, recent historiography has made notable contributions in documenting the reception of patristic texts in the Carolingian period. Historians such as John Contreni noted the degree to which collecting an adequate number of Augustine's works was a scholarly achievement in the early medieval period as a result of the fragmented nature of most Carolingian libraries.[21] Celia Chazelle drew attention to what she termed Carolingian "pastiches of patristic texts", noting especially the frequent use of Pope Gregory I.[22] Scholars such Christof Rolker and Cyril Edwards have traced the circulation of patristic texts near Reims, France, paying particular note to the developing practice of translation of their writings into the vernacular.[23] David Ganz pointed to the originality of Carolingian

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Lateinische Sprache und Literatur des Mittelalters 27 (Frankfurt: Lang, 1992); and H. Grabert, *Nationalsozialistische Monatsefte* 8 (1937), 611.

[18] Maieul Cappuyns, "Jean Scot Erigene," in *Sa vie, son oeuvre, sa pensee* (Louvain: Abbaye du Mont Cesar, 1933); E. Aergerter, "Gottschalk et la probleme de la predestination au IXe siècle," *Revue de l'Histoire des Religions* 116 (1937): 187-233; Eleanor Duckett, *Alcuin: Friend of Charlemagne, His World and His Work* (Hamden: Archon Books, 1951), 311; Eleanor Duckett, *Carolingian Portraits: A Study in the Ninth Century* (Ann Arbor: University of Michigan Press, 1962); M.L.W. Laistner, *Thoughts and Letters of Western Europe* (Ithaca: Cornell University Press, 1957), 257; Martina Stratmann, *Hinkmar von Reims als Verwalter von Bistum und Kichenprovinz* (Sigmaringen, 1991); and John Marenbon, "Carolingian Thought," in *Carolingian Culture: Emulation and Innovation*, ed. Rosamond McKitterick (Cambridge: Cambridge University Press, 1994), 182.

[19] Jean Devisse, *Hincmar et la loi* (Dakar, 1962); Jean Devisse, *Hincmar: archeveque de Reims 845-882* (Geneva: Librarie Droz, 1975-1976); Jean Jolivet, *Godesalc d'Orbais et la Trinite: La Methode de la theologie a l'epoque carolingienne*. (Paris, 1958); and George H. Tavard, *Trina Deitas: The Controversy between Hincmar and Gottschalk* (Milwaukee: Marquette University Press, 1996).

[20] Siegfried Epperlein, "Sachsen im fruhen Mittelalter," in *Jahrbuch fur Wirtschaftsgeschichte* (Berlin 1966), 206.

[21] John Contreni, "Carolingian Era, Early," in *Augustine Through the Ages: An Encyclopedia* (Grand Rapids: William B. Eerdmans Publishing, 1999), 125.

[22] Celia Chazelle, *The Crucified God in the Carolingian Era*, 122.

[23] Christof Rolker, "The Collection in Seventy-four Titles: A Monastic Canon Law Collection from Eleventh-century France," in *Readers, Texts, and Compilers in the Earlier Middle Ages: Medieval Canon Law in Honour of Linda Fowler-Magerl* , ed. M. Brett and Kathleen G. Cushing (Burlington: Ashgate Publishing, Ltd., 2009), 64; and Cyril Edwards, "German Vernacular Literature: A Survey," in

theological contributions despite the period's heavy reliance on patristic texts."[24] Willemien Otten similarly argued that ninth- and tenth-century scholars appropriated patristic writings while simultaneously making their own original arguments, leading to large-scale intellectual and theological developments despite the fact that Carolingians lacked access to an exhaustive canon of patristic work.[25] However, the majority of these analyses have focused exclusively on his citation of Saint Augustine. Some scholars have approached the topic of Gottschalk's use of Augustinian texts from a geographical standpoint, arguing that the reception of Augustinian works remained greater in southern Francia than in its northern regions.[26]

More recently, in the twenty-first century, scholars such as Bernard Boller examined Gottschalk's missionary work in the Balkans prior to his imprisonment.[27] Also notable is Celia Chazelle's work *The Crucified God in the Carolingian Era*, in which she focused largely on the effect of Gottschalk's predestination theology on the liturgical and Eucharistic debates of the ninth century.[28] Most recently, Brian Matz's essay, "Augustine, the Carolingians, and Double Predestination", has explored the influence of patristic legacy within the ninth-century debate, though with nearly exclusive focus on the legacy of Augustine.[29] Other scholars have briefly touched upon Gottschalk's use of other patristic fathers aside from Augustine such as Eleanor Duckett, Philip Schaff, Guido Stucco, Ildar Garipzanov, William Anderson, and Justo González who have made brief mentions of Gottschalk's use of a diversity of patristic authors.[30]

Carolingian Culture: Emulation and Innovation, ed. Rosamond McKitterick (Cambridge: Cambridge University Press, 1994), 144.

[24] Ganz, *Corbie in the Carolingian Renaissance*, 93.

[25] Willemein Otten, "The Texture of Tradition: The Role of the Church Fathers in Carolingian Theology" in *The Reception of the Church Fathers in the West: From the Carolingians to the Maurists*, ed. Irena Dorata Backus (Leiden: Brill, 1997), 5.

[26] Benoit Lavaud, "Precursor de Calvin ou temoin de l'augustinisme? Le cas de Godescalc," *Revue thomiste* 15 (1932): 71-101; Mark Byron, *Ezra Pound's Eriugena* (New York: Bloomsbury, 2014), 72.

[27]Boller Bernard, *Gottschalk d'Orbais, De Fulda a Hautvillers: Une dissidence* (Paris, Ste Ecrivains, 2005), 21.

[28] Celia Chazelle, *The Crucified God in the Carolingian Era*, 214.

[29] Brian Matz, "Augustine, the Carolingians, and Double Predestination," in Alexander Wang, Brian Matz, and Augustine Cassiday, *Grace for Grace: The Debates after Augustine and Pelagius* (Washington D.C.: Catholic University of America Press, 2014), 235-270.

[30] Guido Stucco, *God's Eternal Gift: A History of the Catholic Doctrine of Predestination from Augustine to the Renaissance* (Bloomington: Xlibris Corporation, 2009), 221-223; Eleanor Duckett, *Carolingian Portraits*, 154; Philip Schaff, *History of the Christian Church: Medieval Christianity, 590-1073*, Vol. 4 (Grand Rapids: Eerdmans Publishing Company, 1960), 120; Ildar H. Garipzanov, T*he Symbolic Language of Royal Authority in the Carolingian World (c. 751-877)* (Leiden, Brill, 2008), 309; William P. Anderson, ed., *A Journey through Christian Theology: With Texts from the First to the Twenty-First Century* (Minneapolis: Fortress Press, 2010), 141; and Justo L. González, *A History of Christian Thought, Volume Two: From Augustine to the Eve of the Reformation* (Nashville: Abingdon Press, 2010), 115.

However, a comprehensive work on Gottschalk's use of these fathers has yet to be completed. Even less attention has been devoted to understanding how he used these authors to create a definition of heresy, though several historians have touched upon his opponents' application the term "heretic" in ordering his punishment. Recently, Michael Thomsett argued that Gottschalk's condemnation at the hands of the Frankish Church occurred as a result of a series of personal feuds with prominent ecclesiastical leaders rather than "true belief that he was a heretic."[31] While analysis of Gottschalk's life reveals that he indeed engaged in bitter personal arguments against many of his theological opponents, the conclusion that his writings on predestination bore little effect on his imprisonment ignores his voluminous writings dedicated to defining heresy according to church tradition, works that bear witness to the centrality of the notion of heresy to Gottschalk's attempts to defend himself. Regarding Gottschalk's formulation of his concept of heresy, Matthew Gillis made a notable contribution by pointing to the means by which Gottschalk and his opponents frequently used the term "heretic" against one another, thus demonstrating the fluid nature with which the term was often employed.[32] Furthermore, in his exploration of Gottschalk's exercise of power throughout the theological controversy, Gillis noted the shift in scholarship that has moved toward an embrace of the originality of ninth-century theologians that is synonymous with their frequent use of biblical and patristic sources.[33]

While scholars have thus demonstrated both the pivotal role played by patristic texts in Gottschalk's formulation of his doctrine of predestination as well as the complexity of circumstances under which he gained the label "heretic", there remains a gap in analyzing how Gottschalk used patristic texts to create a definition of heresy, one that both demonstrated his own understanding of orthodoxy and attempted to justify his arguments about predestination as falling within its scope. Although Gillis's recent work thoroughly demonstrated how Gottschalk relied on Augustine's thought to frame himself as non-heretical and contrastingly orthodox, this paper seeks to expand this claim to reveal that Gottschalk appealed to non-Augustinian sources to legitimize both his theory of predestination as well as reverse the accusation of heresy upon his opponents.

Augustinian Ambiguity and Gottschalk's Appeal to Non-Augustinian Sources

Before analyzing the specific patristic authors that Gottschalk used to legitimize his theory of predestination and reverse the accusation of heresy upon his opponents, it is first necessary to analyze why Gottschalk needed to appeal to sources beyond Saint

[31] Michael Thomsett, *Heresy in the Roman Catholic Church: A History* (Jefferson: McFarland, 2011), 70.
[32] Gillis, "Study of Power," 70.
[33] Ibid., 15.

Augustine. However prolific, Augustine left his readers with a rather vague consensus on the issue of predestination. While it remains undoubted that Augustine wholeheartedly espoused the doctrine that God appointed some to eternal life by his own prior choice, Augustine's stance on God's treatment of the remainder of the unchosen portion of humanity was somewhat vague. For example, in his seminal work, *On the Predestination of the Saints*, Augustine defined predestination as "preparation for grace", [*praedestinatio est gratiae praeparatio*], thus implying that it related exclusively to those who have been chosen for eternal life.[34]

However, in other writings, Augustine espoused what is commonly known as "double" predestination, the idea that God predestined not only the elect to salvation but also the reprobate to damnation such as in another of his works, *On Man's Perfection in Righteousness*, where he made reference to "that class of men which is prepared for destruction", [*eo genere hominum, quod praedestinatum est ad interitum*] or in his *Enchiridion* in which he acknowledged the predestination of the wicked to punishment [*praedestinavit ad poenam*],[35] It should also be noted that Augustine himself evolved over the course of his life regarding his stance on predestination, moving from a somewhat moderate position on the nature of free will and human agency to a more rigid defense of the primacy of divine grace in initiating salvation in his later years. Although Augustine affirmed the role of predestination from the time of his conversion until his death, his most radical writings on the topic appeared toward the latter portion of his life.

Augustine's equivocation on this matter, whether deliberate, inadvertent, or representative of his own evolving stance, served as one of the central foundations upon which Gottschalk's enemies composed their arguments. They attacked Gottschalk's interpretation of Augustine as decisively heretical, a charge that he swiftly reversed by appealing to sources beyond Augustine to demonstrate that a wide body of patristic literature both supported his theory of predestination as well as defined heresy. According to Gottschalk, his enemies served as prime examples of this definition.

GREGORY THE GREAT

One of the foremost patristic authors relied upon by Gottschalk to define heresy was Pope Gregory the Great, an adamant defender of predestination whose works *Morals on*

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[34] Augustine, *De Praedestinatione Sanctorum* (*On the Predestination of the Saints*), chapter 10, 19 *PL* 44: 975, trans. in John A. Mourant and William J. Collings, (eds.) *Saint Augustine: Four Anti-Pelagian Writings* (Washington, D.C.: Catholic University of America Press, 1992), 241.

[35] Augustine, *De Perfectione Iustitiae Hominis* (*On Man's Perfection in Righteousness*) 13.31 *PL* 44: 308, trans. in Philip Schaff, (ed.), *Nicene and Post-Nicene Fathers, First Series, Volume V, St. Augustine: Anti-Pelagian Writings* (New York: Cosimo, Inc., 2007), 170; and Augustine, *Enchiridion* [*Enchiridion ad Laurentium*], ed. Car. Herm. Burder (Lipsiae: Sumtibus et Typis Caroli Tauchnitii, 1838), 238; trans. in Augustine, *Enchiridion*, ed. Thomas Hibbs (Washington D.C.: Regnery Publishing, 1996), 116.

the Book of Job, *Homilies on the Gospels*, and *Homilies on the Prophet Ezekiel* all referenced the themes of a fixed and providential order, predestination, and the final judgment, in especial regard for the judgment that God had predestined for the wicked.[36] Gregory therefore held great authority in the eyes of one his most avid readers, Gottschalk. In his *Longer Confession*, in which Gottschalk avowed his rigid stance on the predestination of both the righteous and wicked, Gottschalk referenced Gregory's work, *Homilies on the Prophet Ezekiel*. Gottschalk explained that he harbored a deep fear of denying the truth, a fear that prompted him to ensure that his own theological stance did not depart from orthodoxy. However, Gottschalk then admitted that fidelity to orthodoxy did not always guarantee popular approval. He even noted that at times, it could create a scandal among those who voiced disagreement, arguably a reference to his current imprisonment at the hands of Frankish ecclesiastical leaders. He then quoted Gregory's argument in his *Homilies on the Prophet Ezekiel*, "it is better that scandal is allowed to rise than that truth is abandoned."[37] Gottschalk thus justified his contumacious position by looking to Pope Gregory as evidence that sometimes orthodoxy and popular opinion were not always synonymous.

Gottschalk sought to demonstrate that Gregory both understood the nature of heresy and viewed predestination as outside of its scope. Gottschalk then argued that he would "rather die a thousand times" than espouse a heretical doctrine.[38] Before citing Gregory yet again in his treatise entitled *Longer Confession*, Gottschalk also quoted a verse of Scripture from Proverbs 22:8, "Do not transgress the ancient boundaries that your fathers have set" in attempt to argue that he did not seek to present a new argument, but rather one that had been deemed orthodox by patristic Fathers of the church. He then incorporated Gregory's own commentary on the verse, taken from his Moral Commentary on Job. Gottschalk quoted Gregory's assertion:

> The heretics undoubtedly do this, who live outside the bosom of the holy church. They change the boundaries because they go beyond the decisions of the fathers by transgressing, because they also ravage and lay waste the flocks, and because they

[36] Gregory, *Morals on the Book of Job* (*Moralia in Iob*), in Mark Adriaen, ed., *Corpus Christianorum Scriptorum Latinorum* CCSL 143, 143A, and 143B, Gregorius Magnus, *Moralia in Iob*, trans. Gregory, *Morals on the Book of Job* (Oxford: John Henry Parker, 1844); Gregory, *Homilies on the Gospels* (*Homilae in Evangelia*) (*PL* 76:1075-1312C), trans. David Hurst, *Forty Gospel Homilies* (Collegeville: Cistercian Publications, 1990), 36; Gregory, *Homilies on the Prophet Ezekiel* (*Homilae in Hiezechielem*) (CCSL 142), trans. Theodosia Gray, *The Homilies of Saint Gregory the Great on the Book of the Prophet Ezekiel* (Etna; Center for Traditionalist Orthodox Studies, 1990), 30.

[37] Gregory the Great, *Homilies on the Prophet Ezekiel* 1.7, 5 (CCSL 142); and Gottschalk, *Longer Confession* (*Confessio prolixior*), Lambot, *Oeuvres*, 68; trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 88.

[38] Gottschalk, *Longer Confession* [*Confessio prolixior*]; in Lambot, *Oeuvres*, 69; trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 88.

> also draw the unlearned to themselves by perverse arguments and feed them with destructive teachings in order to kill them.[39]

By offering Gregory's definition of a heretic, Gottschalk attempted to demonstrate that he understood the danger posed by the threat of heresy. This is especially significant given that Gottschalk penned this *Longer Confession* after Hincmar wrote a letter to the laity within his jurisdiction entitled *Letter to the Monks and Simple* [*Ad reclusos et simplices suae dioeceseos*] in which he warned the laity of the danger of straying from orthodoxy if they believed the errors propagated by Gottschalk regarding predestination.[40]

Gottschalk thus sought to counter Hincmar's warning by insisting that he likewise understood the danger of following heretics, but that his own teachings did not fall under this category. Continuing on his theme of protecting the laity from dangerous and heterodox doctrinal errors, Gottschalk also quoted Gregory's judgment on heretics who knowingly deceived listeners.[41] By likewise condemning such action, Gottschalk sought to align himself with Gregory in attempt to distance himself from what he perceived as the misplaced heretical label given to him by his accusers. In addition, by relying on Gregory's label of a heretic as those who live "outside the bosom of the holy church", Gottschalk sought to portray himself as distinctively within the acceptance of the church, despite the fact that he wrote his *Longer Confession* while imprisoned at Hautvillers. While therefore clearly not accepted within the Frankish Church at the time of his writing, Gottschalk sought to make the larger argument that he remained within the bounds of orthodoxy according to the broader concept of the church universal, of which the current Frankish Church that rejected his teachings served as an erring member.

Gottschalk pointed to another of Gregory's assertions in which he argued that heretics rely on falsity to promote their message. Gottschalk quoted Gregory's assertion that heretics, "require the shadows of falsity in order to establish a ray of light."[42] Gottschalk argued that while heretics twisted the truth to assert their point, he instead supported his teachings on predestination with both Scripture and citation of patristic fathers deemed orthodox by the western Catholic Church, such as Gregory. In further explanation of the truthfulness of his teaching, Gottschalk referenced Gregory's assertion that there existed two distinct types of heretics. One type remained ignorant of the truth and thus taught others out of their ignorance. The other, however, knew the truth inwardly yet purposely

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[39] Gregory, *Morals*, 16.44, 6 (CCSL 143), trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 88.
[40] Hincmar, *Letter to the Monks and Simple Folk of his Diocese* [*Epistola ad reclusos et simplices suae dioceseos*], in Lambot, *Oeuvres*, 8-10, trans. Genke and Gumerlock, A Medieval Predestination Controversy, 169-172.
[41] Gregory, *Morals*, 11.26, 37 (CCSL 143), trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 88.
[42] Ibid.

taught unorthodox doctrines and spoke falsity in order to deceive listeners.[43] Both types were inherently sinful, argued Gottschalk, who somewhat surprisingly made no distinction of the guilt of one kind of heretic relative to the other. Both departed from orthodoxy, whether advertently or out of ignorance, he insisted. In addition to promoting falsity among listeners and fellow men, Gottschalk argued that heretics committed the likewise grave offense of using falsity against God himself. Argued Gregory, "Heretics offer God a deceit since they construct things which in no way please him for whom they speak, and they offend him when they try as if to defend him" thus asserting that heretics' use of falsity did not go unnoticed by God himself.[44] Gottschalk then quoted Gregory's further assertion that in return for their falsity, heretics become an enemy of God because they perverted the truth that they purported to teach.[45]

Gottschalk thus used these statements by Gregory to argue that he understood the error committed by heretics who either ignorantly or purposefully spread falsehood. In making this argument, he sought to prove his own legitimacy by demonstrating that he neither spread his teaching of predestination out of ignorance, because he deeply understood the set of beliefs that he taught, nor out of malicious intent, because he realized the potential offense such action posed against not only human listeners but also against God himself. Gottschalk approvingly quoted Gregory who argued that divine punishment awaited heretics for their untruthfulness. By defining a heretic as one who operated on the basis of falsity, Gottschalk sought to portray himself as decisively truthful by relying on patristic fathers such as Gregory. While Gottschalk's defense of his own orthodox is unsurprising, it remains a notable example of his skillful and eloquent manipulation of patristic texts beyond Augustine to legitimize his own arguments.

Continuing on his theme of falsity as the chief operative characteristic of heretics, Gottschalk incorporated additional references to Pope Gregory in his treatise, On Predestination. In his *Longer Confession*, Gottschalk even ventured to pray for the church universal, with an implicit acknowledgement of the Frankish Church in which he was involved, for protection against heresy.[46] By writing this prayer, Gottschalk sought to present his own agenda as aligned with those of his ecclesiastical enemies by attempting to demonstrate that, like them, he desired to rid the church of the threat of heresy. He therefore wanted his opponents to view his teachings on predestination as an attempt to infuse correct doctrine into the church, not to pervert it with errant teachings. In making

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[43] Gregory, *Moralia,* 11.28-39, 39-40 (CCSL 143); referenced by Gottschalk, *Longer Confession* [*Confessio prolixior*], Lambot, *Oeuvres*, 70; trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 88-89.
[44] Gregory, *Morals*, 11.28-39, 39-40 (CCSL 143), trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 88.
[45] Ibid.
[46] Gottschalk, *Longer Confession* [*Confessio prolixior*]; Lambot, *Oeuvres*, 73; trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 92.

this prayer, Gottschalk sought to present his teachings as aligned with, rather than opposed to, his opponents' endeavor to reject heresy and pursue orthodoxy.[47]

FULGENTIUS OF RUSPE

Following this prayer, Gottschalk then referenced another notable patristic author, Fulgentius of Ruspe, a North African bishop and defender of predestination whose works *The Truth about Predestination and Grace* as well as letters to contemporaries named Monimus and Euippius espoused the doctrine of predestination to both salvation and damnation, perhaps more explicitly than any other patristic author.[48] As Francis Gumerlock noted, Fulgentius argued for the persistence of the literary term *synecdoche*, in which the word "all" in biblical verses supporting divine will for all persons to inherit eternal life dealt only with a pre-determined selection of individuals, rather than "all" in its fullest sense of all individuals.[49]

Embracing this interpretation, Gottschalk therefore used Fulgentius as a model for both his defense of predestination as well as his definition of heresy. For example, in his *Longer Confession*, after writing a prayer in which he defended his theory of predestination, Gottschalk stated that he chose to "openly defend the catholic faith here clearly expressed concerning predestination."[50] He then quoted Fulgentius' response to those he perceived as having departed from the faith by stating that he chose to "flee from [them] like the plague and reject [them] as a heretic."[51] However, he then asserted that he did not undergo this process of disassociation lightly. Rather, it was with sorrow that he applied the term "heretic" to an individual who had strayed from orthodoxy, Gottschalk

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[47] Gottschalk, *Longer Confession*; Lambot, *Oeuvres*, 73; trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 92.

[48] Fulgentius, *The Truth about Predestination and Grace* (*De Veritate Praedestinationis et Gratiae Dei*) (CCSL 91A.48-548); trans. Rob Roy McGregor and Donald Fairbal, *Fulgentius of Ruspe and the Scythian Monks: Correspondence on Christology and Grace, Fathers of the Church*, vol. 126 (Washington D.C.: Catholic University of America Press, 2013, 144); Fulgentius, *To Monimus* (*Ad Monimum*) (CCSL 91:1-64) in Anonymous, *The Life of the Blessed Bishop Fulgentius*, trans. Robert B. Eno, *Fulgentius*: *Selected Works, The Fathers of the Church*, Vol. 95 (Washington D.C.: Catholic University of America Press, 2010), 198-204; and Fulgentius, *To Eugippius* (*Ad Eugippium*) (CCSL 91A); trans. Francis X. Gumerlock, *Fulgentius of Ruspe and the Saving Will of God: the development of a sixth-century African bishop's interpretation of 1 Timothy 2:4 during the Semi-Pelagian Controversy* (Lewiston: Edwin Mellen Press, 2009), 149-152.

[49] Francis Gumerlock, "The Difficulty of 1 Tim. 2:4 for Augustine and Others," in Wang, et al., *Grace for Grace*, 156.

[50] Gottschalk, *Longer Confession*, [*Confessio prolixior*]; Lambot, *Oeuvres*, 73; trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 92.

[51] Fulgentius of Ruspe, *On the Faith for Peter* (*De fide ad Petrum*), CCSL 91, trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 92.

claimed.[52] This sorrow stemmed from both his aforementioned disdain for the corruption produced in the church by means of heresy as well as his lamentation that certain individuals believed and taught teachings contrary to orthodoxy. In expressing his concern and sorrow over the dangers posed by heresy, Gottschalk thus attempted to portray his goals as aligned with the ecclesiastical leaders of the Frankish Church.

Gottschalk then ventured further in his quotation of Fulgentius by addressing the punishment fit for heretics. For example, in his *Longer Confession*, he cited Fulgentius' response to perceived heretics by stating that he denounced those who strayed from orthodoxy as "a heretic and an enemy of the Christian faith and as one who, because of this, should be anathematized by all catholics."[53] By including the phrase "all catholics," Gottschalk thus implicitly included himself as a fellow orthodox catholic who shared the collective responsibility of shunning heretics. He then expanded on this topic of avoidance and shunning of heretics by arguing that both actions were the logical means of dealing with heretics who, after repeated warnings to renounce their errant teachings, remained insistent upon their stubborn heterodox beliefs. This type of individual, Gottschalk warned, "should now be avoided by me."[54] In making this statement, Gottschalk attempted to portray himself as fully supportive of the practice of shunning heretics by including himself among those who planned to avoid teachers of heretical doctrines.

In another of his works, Gottschalk again referenced Fulgentius' *On the Faith for Peter* in regard to defining the nature of a heretic. In one section of this treatise, Gottschalk first quoted Fulgentius' defense of predestination in which he referred to "vessels of mercy" that "have been predestined by God before the foundation of the world." Immediately after including this quote, Gottschalk then referenced Fulgentius again, this time referring to his warning on the importance of shunning those who departed from orthodox beliefs.[55] By including this reference on shunning heretics immediately after one in which Fulgentius defended the same theory of predestination as did Gottschalk, Gottschalk sought to demonstrate that not only were his teachings about predestination orthodox, but that those who did not agree were themselves the true heretics, as supported by citation of Fulgentius.

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[52] Gottschalk, *Longer Confession*, trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 92.
[53] Fulgentius, *On the Faith for Peter*, [*De fide ad Petrum*] (CCSL 91).
[54] Gottschalk, *Longer Confession*, [*Confessio prolixior*]; in Lambot, *Oeuvres*, 74; trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 92.
[55] Fulgentius of Ruspe, *On the Faith for Peter*, [*De fide ad Petrum*], (CCSL 91); trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 125.

CASSIODORUS

In addition to Gregory and Fulgentius, Gottschalk also formed his definition of heresy by referencing Cassiodorus, a sixth-century former monk and later Roman statesman. Though Cassiodorus failed to make an explicit distinction between the predestination of the chosen and the damned, Gottschalk manipulated his writings to frame him as supportive of the same view of predestination as that advocated by Gottschalk. For example, in his *Explanation of the Psalms*, Cassiodorus referred to persecution of the church as necessary "so that the number of the predestined may be swiftly obtained." In another part of the treatise, Cassiodorus referred to the judging of the nations "which is known to have been predestined before time began as well as frequent references to "those who are predestined."[56] In his *Longer Confession*, Gottschalk referenced Cassiodorus, whom he praised for having "very beautifully defined what a heretic is."[57] He then cited Cassiodorus' *Explanation of the Psalms*, in which he defined a heretic as "someone who, carried off by ignorance or contempt of the divine law, either a stubborn inventor or new error, or an adherent of someone else's, wants to oppose catholic truth rather than to be subject to it."[58] Gottschalk thus relied on Cassiodorus' argument that a heretic sought to remove himself from under the Catholic Church to insist that he himself sought not to oppose the teachings of the church but rather to restore the doctrine of predestination espoused by the Catholic Church's patristic fathers. By using Cassiodorus as an example of a patristic father who both defined heresy as well as supported predestination, Gottschalk sought to demonstrate that his theory of predestination was clearly distinct from the notion of heresy.

EASTERN PATRISTIC FATHERS

Although Gottschalk primarily referenced western patristic fathers, such as those discussed above, he also relied upon eastern fathers as well. For example, he referenced the fourth-century Greek bishop, Basil of Caesarea, who, although upholding the legitimacy of man's moral responsibility in exercising free will, still retained a high view

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[56] "*cito praedestinatorum numerus impleatur. . .quod tamen praedestinatum ante saecula esse cognoscitur. . .illis tamen parcedum esse non dubium est qui praedestinati sunt. . .numerus praedestinatorum.*" Cassiodorus, *Explanation of the Psalms* (*Expositio psalmorum*) (CCSL 97), trans. Patrick Gerard Walsh, ed., *Cassiodorus: Psalms 51-100*, vol. 2 (Mahwah: Paulist Press, 1991), 393, 183, 55, 175, 415, 383, 127, 68, 188.

[57] Gottschalk, *Longer Confession*, [*Confessio prolixior*]; in Lambot, *Oeuvres*, 70; trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 89.

[58] Cassiodorus, *Explanation of the Psalms*, [*Expositio psalmorum*], (CCSL 97); trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 89.

of divine sovereignty over man's salvation, as exemplified in his *Hexaemeron*.[59] Gottschalk approvingly referenced Basil's argument that true orthodox Christians chose not to depart from orthodoxy out of fear of corrupting the truth to argue that heretics, in contrast, completely harbored no such fear.[60] Gottschalk thus attempted to argue that if he were a heretic, as his opponents labeled him, he would display little regard for the teachings of Scripture and ecclesiastical authority. However, his avid study of both biblical passages as well as patristic texts on the subject of predestination revealed that he in fact demonstrated a deep concern for orthodoxy, he asserted. In his *Longer Confession*, Gottschalk expressed his concern over the means by which his ecclesiastical opponents "suspect that those are heretics who by your grace necessarily believe and confess this truth of the catholic faith concerning the predestination of the reprobate against those who resist and speak against it and that those who assert the opposite are Catholics." Such opponents, Gottschalk argued, served as distinct points of contrast to the orthodox Christians described by Basil.

In addition to Basil of Caesarea, Gottschalk also referenced the fourth-century Archbishop of Constantinople, Gregory of Nazianzus. Similarly to Basil, Gregory also upheld a view that emphasized both divine sovereignty and man's response in salvation, arguing, "it is necessary both that we should be our own masters and also that our salvation should be of God" while qualifying this statement with the assertion that "since to will is also from God, he has attributed the whole to God with reason."[61] Like his commentary on Basil, Gottschalk similarly asserted that heretics demonstrated little regard for Gregory's statement that "[i]t is a mark of fortitude to persevere in truth, although someone is beaten down in relation to things that are nothing."[62] Gottschalk clarified Gregory's statement by adding, "But falsehood and deceit are certainly nothing" before explaining that true proponents of orthodoxy chose to "avoid, shun, and abhor"

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[59] Basil of Caesarea, *Hexaemeron*. For Greek text, see Stanislas Giet, ed., *Homélies sur l'Hexaéméron*, in *Sources chrétiennes*, SC (Paris: Les Ed. Du Cerf, 1950); trans. into Latin by Eusthasius, 400, in E.A. Mendieta and S.Y. Rudberg, *Ancienne version latine des neuf homelies sur l'Hexaemeron de Basile de Cesaree* (Berlin, 1958); trans. into English in Philip Schaff, ed., *The Nicene and Post-Nicene Fathers Second Series*, vol. 8 (Oak Arbor: Logos Research Systems, 1997), 110.

[60] Basil of Caesarea cited in Theodoret of Cyrus, *Ecclesiastical History* [*Historia ecclesiastica*]; For the Greek text, see Theodoret of Cyrus, *Historia ecclesiastica*, ed. and trans. J. Bouffartigue, L. Parmentier, G.C. Hansen, P. Carnivet and A. Martin, Théodoret de Cyr, *Histoire ecclésiastique*, SC 501, 530; trans. into Latin by Cassiodorus-Epiphanius, 510, in *Historia ecclesiastical tripartita*, (*Corpus scriptorum ecclesiasticorum Latinorum* CSEL 71) trans. into English in Genke and Gumerlock, *A Medieval Predestination Controversy*, 89.

[61] "*Quod enim salvamur, id et a nobis, et a Deo esse oportet. . .quoniam velle quoque ipsum a Deo est, optimo jure totum Deo assignavit*" Gregory of Nazianzus, "Oratio 37" ed. Claudio Moreschini, *Sources Chrétiennes*, SC (Paris: Les Ed. Du Cerf, 1950), 318 (1985); trans. into Latin by Rufinus, in (*Clavis Patrum Graecorum*, CPG 3010), trans. into English in Philip Schaff and Henry Wace, eds., *Nicene and Post-Nicene Fathers Second Series*, vol. 7 (Oxford: James Parker and Company, 1894), 342.

[62] The source of this quotation has not been located.

heretics, particularly the falsity that accompanied their teachings.[63] In reflecting on this statement of Gregory of Nazianzus regarding the proper response to falsity, Gottschalk sought to distinguish the response of heretics from that of orthodox Christians, placing himself in the latter category. In addition to Basil and Gregory, Gottschalk also cited John Chrysostom, a fourth-century patristic theologian and Archbishop of Constantinople who advocated a position that acknowledged divine sovereignty as the source of human salvation.

Upon reflection of divine choice of some for eternal life, Chrysostom reminded readers, "He Himself has put the faith within us."[64] Thus, Gottschalk's use of Basil of Caesarea, Gregory of Nazianzus, and John Chrysostom reveals that Gottschalk relied not only on western patristic fathers but eastern ones as well, even using the term "blessed Basil" to demonstrate his admiration of the eastern father. In this case, Gottschalk's intent was not primarily to venerate eastern orthodoxy but rather to make the broader claim that his assertions about predestination were not capricious ideas but rather were well grounded in patristic authority, both western and eastern.

PATRISTIC HERETICS

Beyond merely referencing numerous patristic models on which he formulated his definition of heresy, Gottschalk also explicitly named certain individuals from the patristic era whom he viewed as heretics. For example, Gottschalk identified Pelagius, the fourth-century proponent of a viewpoint that denied original sin and emphasized free will to the exclusion of divine sovereignty in matters of salvation. In a treatise written as a reply to one of his Carolingian theological enemies, Rabanus Maurus, the Archbishop of Mainz, Gottschalk praised Augustine for his refutation of the theories of Pelagius, a statement on which his Carolingian opponents, including Rabanus, would have likewise agreed.[65] In another example, Gottschalk named the fifth-century Pelagian bishop, Julian of Eclanum as one example of a heretic. In 417, Pope Zosimus issued his *Epistola*

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[63] Gottschalk, *Longer Confession* [*Confessio prolixior*]; in Lambot, *Oeuvres*, 71; trans. in Genke and Gumerlock, *A Medieval Predestination Controversy*, 89-90.

[64] "*Id est, ipse nobis fidem indidit, ipse principium dedit*" John Chrysostom, *Homilies on the Epistle to the Hebrews* (*In Epistola ad Hebraeos*), Homily 28. For Greek text, see *Continens homilias in epistolam ad Hebraeos, et indices*, in Frederick Field, ed., *Sancti patris nostri Joannis Chrysostomi Archiepiscopi Constantinopolitani Interpretatio omnium epistolarum Paulinarum per homilias facta* (Oxford: printed by J. Wright: Veneunt at the shop of J.H. Parker; London: J. Rivington, 1845); trans. into Latin by Mutianus Scholasticus, 550, in *Clavis Patrum Graeca*, CPG 4440; trans. into English in *The Homilies of S. John Chrysostom, Archbishop of Constantinople, on the Epistle of S. Paul the Apostle to the Hebrews*, Vol. 39 (Oxford: James Parker and Company, 1877), 324.

[65] Gottschalk, *Reply to Rabanus Maurus* (*Responsum ad Rabanum Maurum*); Lambot, *Oeuvres*, 37-41; trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 66.

Tractoria against Pelagians. After Julian refused to affirm the *Epistola Tractoria* issued by Zosimus, he was deposed as bishop and made the object of a number of writings by Augustine, including *A Treatise against Two Letters of the Pelagians*.[66] Gottschalk referenced Julian as an example of a heretic in his treatise entitled *On Predestination*, citing Julian's misunderstanding of original sin.[67]

Interestingly, when choosing specific individuals to use as examples of heretics, Gottschalk chose those who were unanimously condemned as heretics by all Frankish ecclesiastical leaders. Although Gottschalk charged his opponents with holding what some term as *Semipelagianism*, a modified view on original sin and free will, there remained a distinction between the *Semipelagian* views of Gottschalk's opponents and the more extreme notions of *Pelagiansim* that had been deemed heretical in the fifth century.[68] Although Carolingian ecclesiastical leaders rejected the radical *Augustinianism* proposed by Gottschalk, they likewise rejected a radical Pelagian viewpoint that denied fundamental catholic doctrines such as original sin.[69] They thus shared agreement with Gottschalk in condemning figures such as Pelagius and Julian. By choosing common enemies, Gottschalk sought to create a mutual understanding in attempt to demonstrate that he too condemned the same heretics as did they. By identifying those already deemed heretics by prior ecclesiastical sentences, Gottschalk also attempted to shift accusation away from himself and identify examples of the proper recipients of the label of heretic, those who denied catholic orthodoxy.

In his *Longer Confession*, Gottschalk discussed another specific example of a heretic whom Fulgentius had opposed in his writings, Faustus of Riez, described by Gottschalk as a monk at Lérins before becoming a bishop in southern Gaul. Although deceased by the time Fulgentius wrote against his works, Faustus espoused a view of predestination similar to that of Gottschalk's opponents who placed a great deal of emphasis on man's free will in salvation. As Matthew Pereira noted, his work, *De gratia*, represented the southern Gallican tradition in which the relationship between divine grace and human agency was characterized by symbiosis and cooperation between man and God.[70] Gottschalk introduced Fulgentius' conflict with Faustus by stating that Fulgentius had

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[66] Augustine, *A Treatise against Two Letters of the Pelagians* (*Contra Duas Epistolas Pelagianorum*) (CSEL 60), trans. Philip Schaff, ed., *Nicene and Post-Nicene Fathers: First Series, Volume 5, St. Augustine: Anti-Pelagian Writings* (New York: Cosimo, 2007), 374-416.
[67] Gottschalk, *On Predestination*, [*De Praedestinatione*], Lambot, *Oeuvres*, 180-258; trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 115.
[68] Council of Ephesus, *Excursus on Pelagianism*, Canon 4, in Henry Pace, ed. and trans., *A Select Library of Nicene and Post-Nicene Fathers of the Christian Church: Second Series,* vol. 14, (New York: Christian Literature Company, 1900), 229-230.
[69] Hincmar, *Letter to the Monks and Simple Folk of his Diocese* [*Epistola ad reclusos et simplices suae dioceseos*], in Lambot, *Oeuvres*, 8, trans. Genke and Gumerlock, *Gottschalk and a Medieval Predestination Controversy*, 170.
[70] Matthew Pereira, "Augustine, Pelagius, and the Southern Gallic Tradition," in Wang, et. al., *Grace for Grace*, 184.

"argued in a very catholic manner and at great length" against Faustus.[71] Gottschalk sought to not only provide a concrete example of a heretic who held erroneous beliefs about predestination, but also to demonstrate the manner in which Fulgentius countered such erroneous beliefs. Never one to mince words when criticizing theological opponents, Gottschalk praised Fulgentius' attack on the ideas of Faustus by asserting, "This same doctor proved him wrong and marvelously crushed the lies of the devil . . . and eliminated the lethal poison of antichrist."[72] Gottschalk thus demonstrated that Fulgentius had displayed the same type of pastoral care over the church that Gottschalk had earlier discussed by eliminating the threat of doctrinal heterodoxy from within the church.

Reverse Accusation

In addition to attacking patristic examples of heretics, Gottschalk also made the even more daring accusation of heresy against those among his fellow Carolingians who opposed his teachings. In his *Longer Confession*, after praying for the ability to exhibit the "truest, sincerest, and kindest love against the barking of heretics," Gottschalk preceded in the same sentence to also pray for the ability to "beat back their teeth and biting falsity . . . whether they like it or not."[73] In the following sentences, Gottschalk then warned his enemies that if they became angry with him for his theological position and labeled him a heretic, he would not hesitate to return the insult. He justified his counter attack on his ecclesiastical opponents who charged him with heresy by identifying them as the true heretics, those who denied the predestination of the reprobate. Among his attacks on his opponents, he referred to them as liars, unbelievers, and stubborn resistors of the truth. In addition, after providing an extensive defense of his beliefs based upon patristic citations, he asserted that anyone who did not uphold the same theory of predestination as he did was undoubtedly "blind."[74] In his treatise *On Predestination*, Gottschalk termed those who did not believe him as "enemies of the truth," and thus heretics. In a role reversal, Gottschalk countered his opponents' accusation of heresy by instead implying that only those who did not agree with his teachings were the true heretics, the "stubborn unbelievers" and "enemies of the truth."[75] By framing his

[71] Fulgentius, *Against Faustus* (*Contra Faustus*), referenced in Fulgentius' *Letters* (*Epistulae*), 15.19 (CCSL 91A:456), but now lost.
[72] Gottschalk, *Longer Confession*, [*Confessio prolixior*]; Lambot, *Oeuvres*, 55-78; trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 85.
[73] Ibid., 95.
[74] Gottschalk, *On Predestination* [*De Praedestinatione*]; Lambot, *Oeuvres*, 180-258; trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 109.
[75] Gregory, *Morals*, 11.26, 37, (CCSL 143) trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 133.

argument in this light, Gottschalk defined heretics as those who operated on the basis of falsity and rejected basic claims that fathers such as Gregory the Great had previously deemed orthodox.

Gottschalk also used the method of pointing to common enemies in attempt to accuse his Carolingian opponents of not believing specific doctrinal points. For example, in addition to Pelagius and Julius, Gottschalk also attacked the third-century patristic scholar, Origen, for his views on the power of free will in addition his more radical theories on the nature of the soul and Christological errors. Anathematized at the Second Council of Constantinople in 553, Origen remained an object of mutual loathing among Frankish ecclesiastical leaders.[76] Gottschalk referenced Origen in his argument that those who were not chosen for salvation, the reprobate, were not redeemed. Given that Gottschalk's ecclesiastical opponents did not agree with his argument that the reprobate had been predestined for judgment, Gottschalk instead approached the topic by arguing that failure to believe his assertion would inevitably lead to a belief in the same teachings of Origen. Gottschalk clearly stated what he perceived as the consequences of believing that Christ had died for some of the reprobate by arguing, "if this is true, then that is also true – God forbid! – which Origen asserts, namely, that through a cycle of the years the saints will fall from heaven and the unjust will go from hell to heaven and that they will have this alternation of beatitude and misery."[77] By making this argument, Gottschalk attempted to frame his enemies' beliefs as points on a slope leading toward heresy. Furthermore, by pointing to someone commonly identified as a heretic, Origen, Gottschalk sought to establish a common ground with which to warn his opponents that their theological beliefs drifted toward the very heretical notions that they accepted as anathema. In this extreme role reversal, Gottschalk turned the label of "heretic" away from himself and instead placed it upon his opponents.

Conclusion

By citing patristic fathers aside from Augustine who both supported predestination, whether explicitly or ambiguously, and wrote extensively about heresy, Gottschalk demonstrated that his theory of predestination was not a heretical doctrine, but rather was a continuation of what orthodox fathers of the church had argued in centuries past. In citing Pope Gregory, Gottschalk defined a heretic as one who posed a danger to the laity,

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[76] *Excursus on the XV Anathemas against Origen* (*Canones XV Anathemate contra Originem sive Origenistas*) in *Acta conciliorum oecumenicorum*. Tome 4, Volume 1, eds. Eduard Schwartz and J. Straub (Berlin: De Gruyter, 1971), 248-249, trans. Henry Robert Percival, *The Seven Ecumenical Councils of the Undivided Church* (Oxford: James Parker and Company, 1900), 318-320.

[77] Gottschalk, *On Predestination*, [*De Praedestinatione*]; Lambot, *Oeuvres*, 180-258 trans. Genke and Gumerlock, *A Medieval Predestination Controversy*, 116.

remained opposed to the Catholic Church, and relied on falsity. In citing Fulgentius, Gottschalk added to this definition that a heretic sought to contradict the Catholic faith and thus deserved to be shunned. Similarly, Gottschalk relied on Cassiodorus to argue that a heretic sought to remove himself from the church, an accusation which, along with the definitions given by Gregory and Fulgentius, Gottschalk adamantly described as being wholly unrepresentative of his own behavior. By using Basil's definition of a heretic as one who portrayed a flippant attitude toward biblical and patristic tradition, Gottschalk contrasted his admiration and avid study of biblical and patristic models with the carelessness with which heretics treated such subjects. In citing the definition given by Gregory of Nazianzus that presented a heretic as one who could be justifiably shunned, Gottschalk legitimized his practice of shunning or avoiding heretics in order to draw a clear distinction between himself and those he perceived as heretical. Finally, Gottschalk also referenced Chrysostom's definition that a heretic misled himself into error to argue that he well understood the dangers posed by heretics, not only to others but also to the inner mind of the heretic himself.

In addition to citing patristic fathers, Gottschalk also incorporated examples of patristic heretics in effort to portray his alignment with the church's conciliar decisions regarding heretical doctrines, identify mutual enemies to establish common ground with his opponents, and to warn his opponents that their rejection of his doctrine of predestination reflected a drift toward the same heterodox doctrines that they accepted as condemned. He thus skillfully returned the label of "heretic" upon his theological opponents as a means of accusing himself of any association with the dreaded label. By using patristic models to define a heretic as one who posed danger to the laity, relied on falsity, deserved to be shunned, sought to remove himself from the Catholic Church, displayed little regard for Scripture or church fathers, and misled himself away from the truth, Gottschalk argued that he fit none of the above criteria and thus did not deserve the heretical label with which he had been branded. Thus, by appealing to authorities beyond Saint Augustine, Gottschalk relied on a vast body of ecclesiastical tradition to refute the identification of "heretic" by demonstrating that an orthodox definition of heresy and defense of predestination were not incompatible.

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Connoisseurship in a Globalised Art Market: Reconciling Approaches to Authenticity

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Abstract: *The circulation of forgeries within the secondary art market is an increasingly prevalent condition that betrays trust, damages reputations and distorts our collective cultural narratives. Interested observers of this phenomenon report that the transformation of art from object of aesthetic and formal appreciation to an instrument of wealth creation is the source of the problem. This has led to an argument that our preoccupation with art's commodity status has cultivated an atmosphere of opportunism and greed. In contrast, this paper argues that the commodification of art was a necessary precondition for its venerated status today. Larry Shiner is a scholar whose work challenges the accepted status of art as a transcendent, universal and inevitable cultural category, reframing it as an Enlightenment invention linked to the development of the free market and a middle class consumer economy. This contention provides the basis for my argument that a reconsideration of the relationship between artistic and economic values would bolster the art market's defence against the incursion of fraudulent art works. This article frames the integration of commerce and aesthetics in eighteenth-century Europe as the origin of the way the plastic arts are treated across the global secondary market today. Due to this historical context, visual art works that come to the market are assessed for attribution, authenticity and value according to a Western ontological structure, regardless of their cultural origin. By taking into account the historical and geographic specificity of art's ontological status, connoisseurs would be better prepared to make accurate and incisive determinations, preventing forged or questionable works from reaching the market.*

Keywords*: connoisseurship, art market, art forgery, ontology of art*

* I would like to thank my two anonymous reviewers for their helpful comments.

INTRODUCTION

The circulation of forgeries and art works with false attributions within the secondary art market is a destructive and increasingly prevalent condition that betrays trust, damages reputations and distorts our collective cultural narratives. Interested observers of this phenomenon report that the transformation of art from object of aesthetic and formal appreciation to an instrument of wealth creation is the source of the problem. This has led to an argument that our preoccupation with art's commodity status and value has cultivated an atmosphere of opportunism and greed, providing the deceitful and unscrupulous with the opportunity to exploit a market in which the demand for high-value art works far outstrips supply. Larry Shiner's challenge to the notion of art as a transcendent and universal constant provides a strong foundation for an interrogation of these articles of faith.[1] His positioning of fine art as an Enlightenment invention linked to the development of a free market provides an understanding of art as a cultural economy embodying both traditional artistic values *and* economic values. Using this framework, the following article will investigate the historical link between the emergence of art as an object of refined contemplation and taste, and its fashioning as an aspirational object of consumption, status and wealth. Rather than a symptom of cultural decline (with the fraudulent work standing as the central emblem of the corruption of art world values), I will argue that the commodification of art was a necessary precondition for its venerated status today. This contention provides the basis for my argument that a reconsideration of the relationship between artistic and economic values would bolster the art market's defence against the incursion of fraudulent art works.

My argument will be developed in four parts. In the first section of this paper, I will examine some of the assumptions that have emerged in recent commentary and debate surrounding the regular appearance of forgeries and fraudulent art works on the rapidly expanding international secondary art market. Part two will address the historical link between the development of fine art as a discrete category of creative expression and the concurrent emergence of art as a market commodity. In the third section I will outline how a reconsideration of economic and artistic values as complementary rather than antagonistic allows for an understanding of art works in the context of their production, offering new ways of looking at works produced for the market. In part four, I will discuss the implications of these new ways of looking at and assessing art for connoisseurs working in the global market. The first issue to be addressed, however, is the way in which a few key assumptions pervade the usual commentary surrounding this issue, attributing the encroachment of forged or questionable art works into the secondary market to a fundamental collision of values.

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[1] Larry Shiner, *The Invention of Art* (Chicago: The University of Chicago Press, 2001).

THE GROWTH OF THE SECONDARY ART MARKET AND THE INCREASE IN FORGERY

In order to begin reconciling the perceived conflict between artistic and economic values, this section will examine why art market observers believe that economic values have intruded upon and compromised artistic values. Commentators in the art world and the popular press have explicitly pointed out a correlation between art market inflation, increased participation (especially in emerging economies), and the rise in detected instances of art forgery and fraud**.** In general, this trend is observable only in relation to object-based art works whose uniqueness, fungibility, and scarcity combine to make them especially vulnerable to forgery and misattribution. For this reason, the discussion of art works in this article refers to visual media only. Whilst it is possible to forge a multiply instantiable art work, such as that produced in musical, literary or theatrical form, this is not encompassed by this article as it does not constitute a significant problem for the market. Nevertheless, there can be little doubt that the number of forgeries and false attributions appearing on the market from the visual arts has risen at a sharp rate in recent decades.[2] It is also apparent that, aside from some contraction following the 2008 financial crisis, the global secondary market in the visual arts is a thriving industry, growing in both profit and volume to generate over AU$12.2 billion annually and a growth rate in turnover of 19% since 2003.[3] As the market expands and a surplus of speculative investors inflates demand, ever fewer high value art works, forgeries and misattributions enter the market to address the shortfall: "[w]ith the growth of the size of the art market and the huge increase in market value of many works of art, the incentive to forge copies of objects and pass them off as originals has increased enormously."[4] Assertions such as these have been made across the media, the financial professions and the art world, inferring a connection between the secondary art trade and the commodities market. The entry of new, inexperienced players and the steep rise in the circulation of questionable art works leads to the conclusion that "the increase in international art transactions has incubated a booming market for stolen and fraudulent art" and that "the explosion of new ways to buy art online - particularly through auction sites such as eBay

[2] Tom Flynn, "Negotiating Authenticity: Contrasting Value Systems and Associated Risk in the Global Art Market," in *Risk and Uncertainty in the Art World*, ed. Anna Dempster (London: Bloomsbury, 2014), 121.
[3] "Art Facts: Visual Arts," Australia Council for the Arts, accessed 14 February 2015, http://artfacts.australiacouncil.gov.au/visual-arts/global-10/.
[4] James A. R. Nafziger, Robert Kirkwood Paterson and Alison Dundes Renteln, *Cultural Law: International, Comparative and Indigenous* (Cambridge: Cambridge University Press, 2010), 225.

- has brought flocks of inexperienced buyers into the market and made it easier for counterfeiters to find them, fool them, fleece them and forget them."[5]

Tom Flynn's admonition that rates of forgery are rising with art market inflation specifically references China's rapidly accelerating economy as a point of concern, reporting that "its business structures and institutions continue to be dogged by accusations of corruption and the industry in fakes and forgeries is proliferating."[6] From this account there is a direct connection to be made between the transformation of art into an alternative asset class in China (and similarly emerging economies), and the rise in instances of forgery and fraud. This connection has found its way into academic discourse on the topic without close scrutiny or interrogation, leading to a widely accepted narrative assigning responsibility for the growing problem of art fraud to a misplaced emphasis on investment value in what is an inherently functionless class of object "designed for disinterested aesthetic contemplation."[7] According to this narrative, economic interests have overshadowed and undermined art's traditional aesthetic values, casting fine art's growing commodity status as the culprit in an ongoing and rapidly escalating process of distortion of art's true purpose.[8] According to this view, in addition to the devaluing of art's unique aesthetic status, the resulting influx of forgeries is threatening the credibility of the art market and subverting the rarefied position of fine art itself. Close examination of the art market's emergence, history and current status in the global economy seems to indicate, however, that this view establishes a false dichotomy in which art world values and economic values are judged as being entirely at odds.

The scholarly and media tendency to classify aesthetic and economic values in fine art as distinct and contradictory may be a vestige of the art world's general repudiation of crass commercialism and its stigma of compromised artistic integrity.[9] From this perspective, the problem of art fraud is characterised as emblematic of a struggle between two opposing and antagonistic principles to define the purpose and meaning of art. According to this interpretation, criminal behaviour and fraudulent art works flourish when the art market is divested of its purely aesthetic, contemplative purpose and reshaped as a market commodity. For instance, in his 2004 article on art forgery and the

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[5] "New York University Art Crime and Cultural Heritage Symposium 2014," New York University, accessed 10 January, 2015, http://www.scps.nyu.edu/academics/departments/humanities-arts-and-writing/events/special-events.html. Stephen Brooks, "Art Forgeries Snare Unwary at Online Auction Sites," in *The Washington Times*, 7 June 2011, accessed 18 March, 2015, http://www.washingtontimes.com/news/2011/jun/7/fooled-fleeced-and-forgotten/.

[6] Flynn, "Negotiating Authenticity," 121.

[7] Michael J. Clark, "The perfect fake: creativity, forgery, art and the law," *DePaul University Journal of Art and Entertainment Law* 15, no. 1 (2004): 12.

[8] Jon Huer, *The Great Art Hoax: Essays in the Comedy and Insanity of Collectible Art* (Madison: University of Wisconsin Press, 1990), 84.
John Henry Merryman and Albert E. Elsen, *Law, Ethics and the Visual Arts* (London: Kluwer Law International, 1998), 731.

[9] Clark, "The perfect fake," 11.

law, Michael J. Clark draws an explicit connection between our current obsession with the financial implications of art and the growing prevalence of forgery, declaring:

> Such astronomical commodity fetishism makes the art world ripe for swindlers of many sorts. As art works further undergo the transformation from object of aesthetic expression or formal beauty into a mechanism for increasing wealth, the likelihood of forgery increases. Most importantly, as this transformation continues, an understanding of art in its modern sense - as an object designed for disinterested aesthetic contemplation - diminishes in importance.[10]

This is an incomplete representation of the art fraud narrative, overlooking the inherent complexities of the market and its key players. Whilst it is certainly the case that greed and dishonesty thrive in any booming market, the implication in the above statement is that the one state of affairs (a preoccupation with the economic value of art) is the sole and direct cause of the other (a greater influx of forgeries onto the market). Such a characterisation assumes that artistic and economic values cannot possibly co-exist, and that the attachment of economic considerations to works of art corrupt and corrode their integrity. In addition, this widely accepted portrayal ignores the potential for economic interests to support artistic interests through their role in strengthening reputations, reducing artists' dependence on patronage of one kind or another, and defending against forgery and fraud. Examined in this broader context, it is clear that fine art inhabits a more complex, reciprocal environment involving both aesthetics *and* economics. Strategies to effectively address and forestall the circulation of problematic art works will find greater success if they acknowledge from the outset a strong compatibility between the aesthetic and economic considerations that are woven into the fabric of the art market.

Recent engagement by Olav Velthuis with the potential consequences of subscribing to an overtly adversarial understanding of art and commerce has helped to further define this complex and often fraught relationship. In elucidating two opposing models of interpretation, the "Hostile Worlds" model and the "Nothing But" model, Velthuis, drawing on earlier work by Viviana Zelizer, accounts for the close but often contradictory way the principles of market economics and the values of the art world interact.[11] The "Hostile Worlds" model casts market interests as intrinsically corrosive to the aesthetic, art historical or critical values of art works as their respective logical foundations are mutually exclusive. While the shared rituals, symbols, customs and behaviour comprising the institutional sphere of art are qualitative, involving creativity, imagination and other

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[10] Clark, "The perfect fake," 12.
[11] Olav Velthuis, *Talking Prices: Symbolic Meanings of Prices on the Market for Contemporary Art* (Princeton and Oxford: Princeton University Press, 2005), 24.

unmeasurable values, the institutional sphere of the market is conversely quantitative, concerned with reducing human activity to its commodity or exchange value.[12] The inherent incompatibility of these two worlds, as they inevitably interact, results in the reduction of art to a commodity fetish, the alienation of the artist from both her work and her audience, and the preoccupation of bourgeois audiences with "factors extrinsic to art, such as the signature and name of the maker."[13] Since the market reduces all values to monetary units of measurement, and as art works are unique, unquantifiable symbolic goods, the effect of the interaction of these two institutional spheres is society's estrangement from culture and its uplifting, regenerative effects.

The second model defining the relationship between art and commerce is identified by Velthuis as the "Nothing But" model, a model which disavows altogether the duality of competing logical frameworks established by the "Hostile Worlds" theory. Here, artistic value is conceptualised as "nothing but" a *form* of economic value.[14] Hence, the art market is indistinguishable from any other market. Art works are commodities with value that can be measured and benefited from by its buyers and sellers. According to this model, art's commodity status is a neutral condition that has no discernible impact upon its cultural position or influence. Velthuis is critical of both views, suggesting a possible third alternative in which art and commerce are neither toxic to each other nor benign and neutral but, in fact, mutually reinforcing and actively engaged in each other's institutional spheres in a beneficial way. Economics is culturally charged and art has a self-interested, economic dimension. Thus, rather than an invasive, polluting influence directly causing distortions such as forgery, the application of market values and concerns to works of art serve to validate and elevate their unquantifiable, subjective qualities.

THE EMERGENCE OF FINE ART AND THE ART MARKET

In contrast to the "Hostile Worlds" narrative of degeneration that has been widely adopted by art world observers, and the "Nothing But" model that is more common in traditional economic circles, I argue that the special symbolic status of the authentic, original art work is underpinned by an interdependent, reciprocal relationship between artistic and economic factors. While art world principles such as quality, originality and authenticity legitimise financial values in the art market, economic considerations preserve and protect the intangible values of artistic quality by providing the measurable, observable evidence of price. A number of scholars have recognised the historic specificity of fine art and its development in close parallel with an open market for art and cultural activities. In his pioneering article, "The modern system of the arts: A study

[12] Velthuis, *Talking Prices*, 24.
[13] Velthuis, *Talking Prices*, 25.
[14] Velthuis, *Talking Prices*, 26.

in the history of aesthetics," Paul Oskar Kristeller positions fine art as an aesthetic category that had no coherent form until the eighteenth century.[15] His treatise is further developed by Martha Woodmansee, who points more specifically to the emergence of competing bourgeois diversions such as popular literature to explain the consolidation of more refined, contemplative pursuits under the rubric of fine art.[16] Larry Shiner's account of the eighteenth-century social and institutional changes that resulted in an integrated system of fine art provides a particularly compelling articulation of a model of reciprocity between economic and aesthetic forces.

According to Shiner, this model has its origins in Enlightenment Europe, during which art works produced under a nascent market system, in contrast to the traditional patronage system, were viewed as the expression of a gifted individual's personality, creativity and imagination.[17] The art market arose in close parallel with the acceptance of authenticity as a criterion of value synonymous with authorship and designed to legitimise and reinforce the financial value of inherently valueless objects. In this context, an art work was defined as such by its history of production and the identity of its creator.[18] According to the principles outlined by Nelson Goodman, the autographic category of art works are identified not by the material that constitute them but by the context of their creation.[19] This context is not reproducible no matter how faithfully a work's likeness can be copied or replicated. Its authenticity, and thus its financial value, resides in its ontological condition as an object created by a person identified as an artist who intended that the object be interpreted as art. Hence, current understanding of art in the Western tradition as an object with an autographic ontological structure is an outcome of its emergence in the eighteenth century as a fungible commodity: an aspirational object of both conspicuous consumption *and* refined contemplation. Art world values encompassing creative freedom, originality, genius, and vision - values that repudiate forgeries, copies and fakes - arose in conjunction with a new understanding of art as an object of consumption that could be created for, and traded on, the open market. Its financial value was henceforth tied to its direct and irrefutable connection to a particular creator imbued with the essential qualities of individual genius and creativity by the art world. Recognising that the emergence, history and current structure of the art market necessarily embraces both economic and aesthetic forces is the key to understanding and combating the prevalence of forgery and fraud today.

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[15] Paul Oskar Kristeller, "The modern system of the arts: A study in the history of aesthetics," *Journal of the History of Ideas* 12, no. 4 (1951): 510.
[16] Martha Woodmansee, *The Author, Art and the Market* (New York: Columbia University Press, 1996), 113.
[17] Shiner, *The Invention of Art*, 127.
[18] Nelson Goodman, *Languages of Art: An Approach to a Theory of Symbols* (New York: The Bobbs-Merrill Company, Inc., 1968), 116.
[19] Goodman, *Languages of Art*, 118.

The value and emphasis accorded to authenticity and originality across the global secondary art market in its present form has its origins in the eighteenth century emergence of "fine art" as a discrete category of cultural production. A gradual unmooring of some categories of artistic endeavour - specifically painting, sculpture, poetry, music and architecture - from their artisanal, workshop-bound status was an outcome of the rapidly expanding European bourgeoisie and its growing appetite for leisurely diversions and activities. Along with some educated noblemen, many notable French, British and German writers and philosophers who were part of this new middle class agitated through journals, salons and other public forums for the elevation of purely aesthetic pursuits above the 'ordinary' pleasures associated with entertainment or utility.[20] The gradual acceptance of fine art as an elevated category of cultural artefact, coupled with the growing level of interaction between the European nobility and the higher strata of the new bourgeoisie, had immediate repercussions for traditional ideas of originality, genius and the artistic temperament. The resulting association of fine art with the aspirational bourgeois qualities of taste, refinement and sophistication had a profound impact upon the practice of collecting and the idea of art as a market commodity.[21] These effects can still be observed in the customs, habits and the treatment of art objects within the art market today.

Within his broader critique of the dominant art historical narrative characterising art as a universal and inevitable category of specialised human activity, Shiner positions the modern system of the fine arts as the result of a unique set of social transformations that occurred in eighteenth-century Europe. The separation of certain pursuits from other forms of skilled activity, subsequently re-classified as the products of innate talent and vision over practice and skill, reflected a corresponding separation of the new middle class from the peasantry. This emerging social stratum began enjoying aesthetic pursuits for their own sake rather than for a utilitarian, civic or religious purpose. Shiner treats this dramatic shift in perspective as a yardstick pinpointing the historical moment at which a handful of chosen activities acquired the descriptor of fine art and became a specialised category with an elevated cultural status. His conclusion, that the system of practices, activities and artefacts known collectively as fine art is an eighteenth-century invention, establishes a sound and useful basis from which to discuss the reciprocal relationship between aesthetics and economics in the art world. The autographic ontological status presently conferred upon the plastic arts can be traced to this era and explains the art market's inclination towards monetising intangible properties such as genius, vision and creativity over the physical properties of the work itself. Other scholars, such as Stephen Davies, offer contrasting views, positioning art as "universal and foundational to human nature" and an outcome or by-product of adaptive survival behaviours, necessarily

[20] Shiner, *The Invention of Art*, 101.
[21] Shiner, *The Invention of Art*, 105.

leading away from the conclusion that art is a recent invention.[22] While evidence supporting each of these viewpoints can be convincingly presented, Shiner's account is the more useful in providing an explanation for the way that this particular autographic ontological framework for visual art has taken root in all the institutions of the art world, most significantly the art market.

The eighteenth-century shift in values leading to "the separation of artist from artisan and the work as creation from the work as construction," established the paradigm of originality, authenticity and scarcity which currently regulates the global art market.[23] With this shift, art works entered the province of luxury, becoming "positional goods"; objects whose financial value resides in their scarcity.[24] Because generally only one individual can possess it, the art work assumes a declarative value affirming the collector's wealth and taste. The act of selecting and paying extravagantly for a particular art work, therefore, has profound implications for the way its artistic values are perceived. This mutually-reinforcing mechanism drives a convergence of values, derived from the art market's origins in Enlightenment Europe, whereby art world principles of creativity, originality and authenticity support the healthy functioning of what is essentially a commodity market. The laws and regulations related to the art market emphasise these values, not because of a righteous philosophical commitment to the artistic impulse, but because, in the absence of intrinsic value enjoyed by other fungible commodities, they underpin the financial values that make art works attractive assets for investment and trade. Through fundamental statutes such as copyright, *droit moral* and title, the veneration of creativity and originality is written into the legal frameworks underpinning the market. While many art world participants do, indeed, assert a righteous commitment to the artistic impulse - to the point of publicly denigrating any discussion of art's investment or exchange value - fine art as an object of aesthetic and art historical significance nevertheless exists in the context of a market that relies upon equating authenticity and originality with quality and value.[25] The extent and relevance of this synthesis is best understood when contextualised by an example from its earliest expression in modern history.

The legal and moral frameworks implicitly accepted across the art world today can be traced to the agitations of the English artist William Hogarth and a few of his fellow engravers, who pushed for legislation conferring exclusive rights to the creators of etchings, engravings and prints in the copying and selling of their works. Hogarth's

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[22] Stephen Davies, *The Artful Species: Aesthetics, Art and Evolution* (Oxford: Oxford University Press, 2015), 6.
[23] Shiner, *The Invention of Art*, 126.
[24] "In Praise of Forgery: The Emperor's New Pictures," *The Economist*, 21 September 2013, accessed 27 February, 2015, http://www.economist.com/news/leaders/21586580-fakes-say-some-interesting-things-about-economics-art-emperors-new-pictures.
[25] Merryman and Elsen, *Law, Ethics and the Visual Arts*, 730.

actions built upon the passing of the Statute of Anne, the world's first copyright legislation, in Britain in 1710. Despite being a watershed event that ratified a burgeoning alliance between commerce and individual artistic endeavour, it covered only literary works, as evinced in its formal title, "An Act for the Encouragement of Learning, by Vesting the Copies of Printed Books in the Authors or Purchasers of Copies, during the Times therein mentioned."[26] Hogarth lobbied the British parliament for recognition of the authorial rights of engravers on similar grounds, submitting that the prevailing legal title holders, the print sellers, "insist upon a most unreasonable share of the Profits for selling the Prints."[27] According to the existing model, print sellers could make and sell cheap copies of an engraver's original, undercutting the artist. Given that these counterfeits were usually variations of inferior quality, it is noteworthy that Hogarth's petition remarked upon the effect the proliferation of copies had on an artist's reputation and on the arts as a discipline of high standing. Current practices, he asserted, have functioned to "sink the Arts themselves into the low Condition which they are at present in."[28] Legislative protection of creators over print sellers would not only secure "to every one the Fruits of his own Labour," but also improve the quality of artistic output in general, "encouraging more young Men of Taste and Genius ... to indulge their Love of Designing."[29] Consequently, the art public would have "a greater variety of Prints to chuse out of."[30] Furthermore, he contended, as designing was "the Foundation of Painting, Sculpture, Architecture, as well as all the Train of inferior Arts," a resulting improvement in the quality of artistic production would enrich the nation and uplift its cultural standing across Europe.[31]

It is clear that Hogarth observed the emerging interdependence between commerce and art and recognised its significance for both the livelihoods of artists and for the progress of fine art itself. The 1735 "Engraver's Act" (also colloquially known as Hogarth's Act) invested "every Person who shall invent and design, engrave, etch, or work in Mezzotinto or Chiaro Oscuro," with the "sole right and liberty of printing and reprinting" their work, "for the term of fourteen years to commence from the day of first publishing thereof."[32] Hogarth's actions, and the spectacular success of the Act in curtailing piracy, wedded the Enlightenment notions of creative freedom, inspired vision and artistic integrity to the market principles of supply, demand, quality and reputation.[33] Thereafter, the artist's liberation from the constraints of patronage allowed him or her to exercise his or her own creative impulses, creating works in advance for an emerging art

[26] Ronan Deazley, "Commentary on the Engravers' Act (1735)," in Primary Sources on Copyright (1450-1900), eds Lionel Bently and Martin Kretschmer, accessed 20 February, 2015, www.copyrighthistory.org.
[27] Deazley, "Commentary on the Engravers' Act."
[28] Deazley, "Commentary on the Engravers' Act."
[29] Deazley, "Commentary on the Engravers' Act."
[30] Deazley, "Commentary on the Engravers' Act."
[31] Deazley, "Commentary on the Engravers' Act."
[32] Deazley, "Commentary on the Engravers' Act."
[33] Shiner, *The Invention of Art*, 118.

market. The illustrative power of this episode is twofold. Firstly, it establishes a point of origin for the connection between artistic value, economic value and autographic authenticity. Secondly, it demonstrates an emerging identification of originality as a primary quality in which economic and artistic value resides. Hogarth's battle for the recognition of engravers' rights planted the flag of value in the territory of both authenticity and originality, overturning previous assumptions that were formalised in law and anticipating later challenges, such as the inclusion of engravers in the British Royal Academy of Arts.

To engravers granted membership of the Royal Academy, the inferior status of 'Associate Engraver' was accorded to signify a distinction between the fine arts as disciplines involving invention, genius and originality, and the 'mechanical' arts associated with "mere skill and copying."[34] This division highlights the esteem conferred upon the philosophical notion of originality as a prerequisite of artistic quality and economic value in a fledgling market. The exclusion of engravers from full Academy membership symbolises eighteenth-century Europe's use of originality and authenticity as the primary tools with which to define fine art as a desirable, unique and, therefore, marketable commodity. The rise to prominence of these two qualities in this particular geographic and historical context brings into relief their culturally contingent nature. The correlation of originality with artistic virtue, exemplified by the demotion of engraving and other 'reproductive' arts to the "world of trade and manual work," can be seen as an outcome of the early formation of a bourgeois, aspirational market and an art world to surround and support it.[35] The positive association of originality with artistic and economic value arose alongside the significant changes to the conditions of artistic production and consumption that shifted the creative process from a patronage model to a market model. Under this new paradigm, an art work became an attractive asset if its uniqueness and scarcity could be assured. This condition influenced professional artists to cultivate and display in their work evidence of the Enlightenment ideal of the 'visionary genius', a mainstay of which was originality. Its importance to status, reputation and profit in this emerging market led to originality's conflation with authenticity, and resulted in the concept of authenticity as an autographic condition. Following these critical developments, such values have been reimagined as constant and universal aesthetic attributes. However, close inspection of the conditions surrounding their emergence have shown that they are not universal but historically and culturally contingent.

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[34] Elizabeth Coleman, *Aboriginal Art, Identity and Appropriation* (Aldershot: Ashgate Publishing, 2005), 45.

[35] Gordon J. Fyfe, "Art and reproduction: some aspects of the relations between painters and engravers in London 1760-1850," in *Media, Culture and Society* 7, no. 4 (1985): 403.

Shiner's account of the modern system of fine arts, the treatment of engravers by the British Royal Academy of Arts, and the Hogarth legislation cementing artists' authorial rights substantiate three claims. Firstly, that visual art works are assumed by the institutions of the art world to possess an autographic ontological structure. Secondly, that this structure is the result of significant social and institutional changes that took place in eighteenth-century Europe. Thirdly, that this ontological structure reinforces a compatibility and reciprocity between the artistic and economic aspects of art. The first claim is borne out by the rapid escalation of public regard for individual creative expression that accompanied the dismantling of the patronage system and its replacement with an open market for art. At the same time, the so-called 'mechanical' arts were discredited as lacking the hand of the artist. The second claim is validated, among other events, by the emergence of a middle class and its desire for purely aesthetic pursuits. This resulted in the veneration of individual artists and their demonstrations of creativity and genius. The third claim is supported by the adoption of Hogarth's Act which signified the public recognition of originality, creativity and innovation as essential artistic qualities through their formal attachment to the potential for profit. The convergence of these events created the circumstances in which art is treated as legitimate only by meeting a particular definition of originality and authenticity. This state of affairs confirms the geographic and historical specificity of visual art's present autographic ontological condition.

ART FOR THE MARKET

As the previous sections have shown, the notions of authenticity and originality - as they are applied in today's international secondary art market - are specific interpretations resulting from a set of European historical circumstances that cultivated an association of market principles with the elevated ideals of creativity, genius and vision. The uniformity of this application, however, has made it difficult for connoisseurs and other professionals to assess work that comes to the market from non-Western cultural settings. This has increasingly been the case since much of the work emerging from the European tradition has been priced out of the reach of all but the wealthiest collectors. In 2012, according to art industry observers, the Chinese art market exceeded the United States in volume and revenue for the first time, making questions surrounding the authentication of its works all the more pertinent.[36] China's cultural traditions value art as a mediator of spiritual truth, emphasising allegory, allusion, process and technique.[37] The resulting proliferation of stylistically similar, often unattributed, art works has created some unique challenges

[36] David Barboza, Graham Bowley, and Amanda Cox, "A Culture of Bidding: Forging an Art Market in China," *The New York Times*, October 28, 2013, accessed February 21, 2015, http://www.nytimes.com/projects/2013/china-art-fraud/.
[37] Lin Ci, *Chinese Painting* (Cambridge: Cambridge University Press, 2011), 4.

for the Chinese art market as it has begun to attract the attention of Western and other non-Chinese collectors and art world professionals.

In 2012 and 2013, journalists began reporting that forgery and fraud were becoming a widespread problem in China's booming art auction industry, and that "artificially-inflated prices and manipulated sales have so disrupted the values for Chinese art and antiques that the true value of many of them remains unclear."[38] As in the West, Chinese experts agree that the number of fakes appearing on the market has increased as overall participation has multiplied.[39] However, estimates of the percentage of fakes coming to auction are far higher in China compared with equivalent auction houses in the West.[40] Fakes and forgeries, often mass produced, have so flooded the market that regulators and observers have been unable to keep pace, and the trend has begun to infect the Western market. As the "pent-up consumerism of the newly rich" drives an explosion in the demand for luxury goods in China, collectors have sought to showcase their reverence for Chinese cultural heritage through the purchase of antiques, jade, archaeological artefacts, paintings and calligraphy.[41] These circumstances have nurtured the ideal conditions in which a thriving demand for this type of material has collided with a culture in which high quality reproductions are in abundant supply, as supported by teaching traditions that prioritise precise copying and respect for traditional techniques. It takes little effort for these reproductions to make their way onto the market, where, once sold, they can acquire legitimacy and continue circulating in resale.

Copying, imitation and allusion are integral principles underlying the ontology of traditional Chinese art practices. The production and appreciation of art in China involves an awareness of, and reverence for, ancient techniques, the observation of highly codified workshop practices and a direct, unbroken lineage connecting the work of the past with that of the present. In contrast to the West, in which the 'shock of the new' narrative privileges originality in the form of novelty and innovation, Chinese art documents a sensibility that the masters of the past have distilled beauty in a manner worthy of emulation. Hence, while outright forgery with deceitful intent is not the aim, art schools and workshops heavily emphasise rote learning through imitation.[42] Frequently, the student will use paper rubbings, woodblock prints and calligraphy copybooks as templates which he will copy or trace, providing expression in brush or ink. Through faithful practice and attention, the student will gradually learn his own autographic style,

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[38] Abigail R. Esman, "China's $13 Billion Art Fraud - And What It Means For You," *Forbes*, 13 August 2012, accessed 11 April, 2015, http://www.forbes.com/sites/abigailesman/2012/08/13/chinas-13-billion-art-fraud-and-what-it-means-for-you/.
[39] Barboza, Bowley and Cox, "A Culture of Bidding."
[40] Barboza, Bowley and Cox, "A Culture of Bidding."
[41] Barboza, Bowley and Cox, "A Culture of Bidding."
[42] James Cahill and Jerome Silbergeld, "Chinese art and authenticity," in *Bulletin of the American Academy of Arts and Sciences* 55, no. 1 (2001): 20.

similar to the way in which the verbal expression of poetry reveals the identity and personality of the performer. The outcome of this is that these imitations find their way onto the market where they are mistaken for originals.[43]

The sixth principle of the much-celebrated 'Six Principles of Chinese Painting', written by the art historian Xie He in approximately 490CE, is 'transmission by copying', formalising the practice as an honourable and venerated aspect of scholarly artistic endeavour in China. Indeed, at least as far back as the fourth century, imitation and direct copying of the works of earlier masters was considered an integral aspect of artistic training and essential to maintaining technical knowledge and craftsmanship. The priority in most traditional Chinese art has been to capture the spiritual truth of its subject in a suitably reverential manner.[44] To this end, a great deal of diligent practice is required of aspiring artists, in which the development of skills in tracing and direct copying of earlier masters, as well as imitation and pastiche, provides students with the foundations for the development of their own distinct style that, nevertheless, honours and preserves traditional wisdom. Over the centuries, this custom has matured into a visual culture that communicates a direct relationship between past and present, as well as between artist and the natural world. Art works function as a visible reminder of the artist's connection to an artistic tradition extending back to antiquity. As a result, the skills and knowledge required to produce a copy of a Song Dynasty silk painting, for example, remain highly regarded within Chinese culture, and, for this reason, many works that would be considered forgeries by the standards of Western connoisseurship and authentication practices are as equally treasured as originals in Chinese collections. This is not to say that *all* copies are valued in China. Once again, the context of creation and the ontological condition of the work in question largely inform judgements regarding authenticity.

Connoisseurs working within the rupture between the universalised Western art auction system and the non-Western origins of many of its artefacts will be better prepared to negotiate these differences in perspective if they approach works from the inside out, that is, from the perspective of their materially embodied, culturally emergent ontological status. Art works from a Euro-American context are readily identifiable with the system of authentication and connoisseurship currently employed by the auction industry as their ontological conditions are compatible. There is a vertical integration of ideas at work between Western conceptions of art as a manifestation of individual creativity and vision and its economic function as a fungible commodity traded for both investment and aesthetic purposes on the open market. The unmodified translation of this system to emerging economies such as China, however, presents difficulties because of the subtle but decisive ontological variations that colour the universal criteria against which art works are measured. Traditional Chinese art is largely valued for its timelessness: its depiction of a deep connection to tradition and history, the outcome of

[43] Cahill and Silbergeld, "Chinese art and authenticity," 18.
[44] Ci, *Chinese Painting*, 8.

which is that many valuable art works, at face value, do not display the characteristics of originality and authenticity sought by Western collectors. Qi Baishi's *Eagle Standing on a Pine Tree* (figure 1), for example, looks remarkably similar to any number of paintings on silk or paper created in the last 300 years (figures 2, 3 and 4). This twentieth-century artist draws heavily on the traditions and techniques of his predecessors to the extent that by Western standards this particular painting could qualify as plagiarism. This is a key ontological distinction not accounted for within a global art market lacking in nuance and easily affected by unfavourable assessments in its considerations of authenticity, originality and value. As objects of 'embodied meaning', art works are reducible to neither their physical nor their intentional properties, but an amorphous combination of both. In light of this, it is important for connoisseurs to bring to their assessments an understanding that the qualities they are expected to measure are intrinsic to the art work itself. Compelling works to fit the requirements of a particular commercial interest in a particular cultural context does not change their independent ontological status.

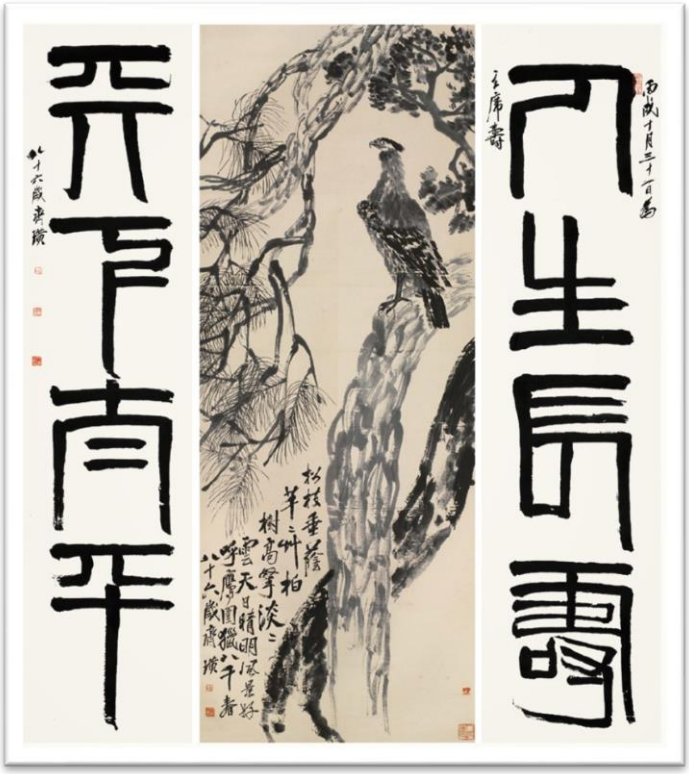

Figure 1. Qi Baishi (1863-1957), *Eagle Standing on a Pine Tree*, 1946. Hanging scroll, ink on paper, 266 x 100 cm, private collection.

Figure 2. Zheng Xie (1693-1765), *Orchid, Bamboo and Rock*, mid eighteenth century. Hanging scroll, ink on paper, 99.5 x 40 cm, private collection.
Figure 3. Bada Shanren (1626-1705), *Two Eagles*, 1702. Hanging scroll, ink on paper, 187.3 x 90.2 cm, Metropolitan Museum of Art, New York.
Figure 4. Li Shan (1686-1762), *Flower and Stone*, 1747. Hanging scroll, ink on paper, 156 x 42 cm, private collection.

When discussing questions of authenticity in Chinese works, then, it is necessary to adopt the vocabulary and conceptual tools that facilitated their creation. While Western definitions of originality and authenticity, based in historical conditions favouring innovation, individual achievement and the profit motive, suit assessments privileging the hand of the artist, Chinese works may resist such criteria. Yet, by applying criteria sympathetic to their creative context, art works can still yield constructive insights and correct attribution. Attention to pictorial integrity (in painting), or the existence of the work independent of its creator, liberates the connoisseur from the onus of such considerations as inventiveness, genius or imagination. It is tangential, even irrelevant, to assess a Chinese art work as the outcome of an artist's motivation to express an individual creative vision and profit from it. A meaningful assessment of quality, authenticity and attribution is more likely to result if it is undertaken in faithfulness to its traditional purpose as a scholarly mediation between nature and human emotion. Contrary to the Western understanding of originality of expression, traditional Chinese calligraphy and traditional paintings on silk or paper are generally created and received as meditations that emphasise the creative act over the finished work, produced according to ancient rules for the moral and spiritual elevation of both the creator and the viewer and, in which,

the artist is positioned as mediator or conduit rather than creative agent.[45] In this sense, authenticity and originality defer to the internal logic of the work itself and its faithfulness to ancient instructions. When examined from this perspective, Chinese art lends itself more to what Gregory Currie terms the "Instance Multiplicity Hypothesis," according to which all art forms, including paintings and sculptures, are intrinsically multiple, in that they all possess a theoretical multiplicity of instances.[46]

The global secondary art market problematises the unconditional esteem conferred upon originality and authenticity as intrinsically positive and essential artistic values. When examined in the context of present day international commerce, exchange and communication, the culturally-constructed nature of these values becomes apparent. Rather than universal aesthetic qualities, originality and authenticity are culturally specific historical values, developed and refined within the customs and institutions of European history. So completely have these values been assimilated, however, that their application today, especially within the secondary art market, are seen as universal and constant. The Western institutions that collectively constitute the art world legitimise and perpetuate this fixed definition of terms. The rapid expansion of globalisation, however, has inundated the market with competing interpretations of aesthetic quality and art world value.

IMPLICATIONS FOR CONNOISSEURSHIP

While utilised today as only one of many available tools deployed in the assessment of art objects, connoisseurship denotes both a discipline and a sensibility derived from the seventeenth-century popularisation of the 'man of taste' or 'learned gentleman' as an ideal to which members of the European aristocracy were expected to aspire. Knowledge of art, the collection of decorative or exotic objects, and an ability to draw or paint were viewed as an indicator of good breeding and class status.[47] By the early eighteenth century these habits and skills had evolved from a form of social currency into an organised practice in which this acquired knowledge was mobilised according to rational processes and principles for the purpose of appraisal, attribution and authentication. From the Latin 'cognoscere', to get to know, connoisseurship is founded on the idea that the concentrated study of a particular artist enables the practitioner to become so familiar with his or her style and technique that their work becomes immediately recognisable. This 'trained eye', a refined sensitivity to the subtleties of an art work's visible characteristics such as

[45] Ci, *Chinese Painting*, 4.
[46] Gregory Currie, *An Ontology of Art* (London and New York: Palgrave Macmillan, 1989), 4.
[47] Carol Gibson-Wood, *Studies in the Theory of Connoisseurship from Vasari to Morelli* (New York and London: Garland Publishing, Inc., 1988), 45.

composition, brushwork or subject matter, is deployed in a manner mythologised as virtually indistinguishable from instinct or intuition. Until the nineteenth century, it was considered the primary and most trustworthy form of appraisal, and its practitioners, drawn typically from the ranks of artists or 'gentleman collectors', were esteemed as scientists due to the rigorous application of meticulous study, analysis and classification which defined their practice.[48] Its methodology relied entirely upon refined, astute observation, a practice superficially consistent with the principles of the scientific method that had recently gained influence among the educated classes of Europe. The use of documentary evidence or, later on, pigment analysis and laboratory testing to evaluate, authenticate and correctly attribute an art work was considered secondary to the insight that could be gleaned from the scrupulous inspection of a work's visible properties. In the twenty-first century, connoisseurship is a contested discipline, widely derided and discredited by many scholars as a pseudoscience, too subjective and arbitrary to be of any real value. However its reputation evolves, the discipline remains central to the due diligence practices employed by international auction houses. Even if called by another name and supported by evidence from scientific and documentary sources, connoisseurs are still traditionally acknowledged as the gatekeepers of art market integrity.

Looking broadly at just two artistic traditions, those of Europe and of China, reveals the breadth of conceptual terrain that today's gatekeepers must negotiate. As the art market becomes increasingly diversified, profitable and geographically diffuse, it is useful for connoisseurs to approach art works with a view that criteria such as authenticity, originality and aesthetic quality are coloured by the work's ontological condition, which is, in turn, dependent upon historical and cultural context. This being the case, treating all art works as ontologically identical would be unlikely to yield an accurate evaluation against such criteria. Equipped with the skills and language to discern the subtle, but often significant, ontological divisions between the creative output of different historical and cultural traditions, connoisseurs would have a more appropriate vocabulary with which to apply the necessary assessment criteria for authenticity and to evaluate quality. While the international art market, as a whole, tends towards a homogeneity of rules, standards and customs due to its Euro-American origins, the universal application of absolute values such as authenticity and originality are informed by qualities that are themselves conditional, culturally emergent and embodied in the artefacts themselves.[49] Recognising this is the first step towards approaching works from the perspective of their particular ontological status. Aesthetic appreciation and the accurate, insightful assessment of quality, condition and attribution is thus opened up to considerations not allowed for under the rubric of strictly Western ontological conditions. A more flexible approach to connoisseurship facilitates the acceptance of a broader range

[48] Gibson-Wood, *Studies in the Theory of Connoisseurship*, 7.
[49] Dale Jacquelle, "Margolis on emergence and embodiment," in *Journal of Aesthetics and Art Criticism* 44, no. 3 (1986): 257.

of definitions and criteria into the scope of authentication practices applied at the global level, and enables individual art works to be discussed and assessed on their own ontological terms rather than being compelled to fit a Western schema restricted by commercial interests and binary oppositions such as 'authentic vs. fake'.

Connoisseurs working in the global secondary art market are engaged to evaluate works against fixed, universal criteria, regardless of cultural or historical origin. Whether appearing at auction or for private sale, objects are measured against three specific benchmarks: authenticity (the art work is shown to have been genuinely created by the individual purported to have created it); originality (the work is the first of its kind and demonstrates innovation and inventiveness); and aesthetic, artistic or art historical value (members of a community accepted as part of an art world identify the object as art).[50] While their relative application in terms of emphasis or interpretation may shift according to such variables as the medium, age or provenance of a work, the absoluteness of the criteria themselves compresses the range of perspectives that can inform and add nuance to these criteria. This is because the criteria were established within the Western art historical tradition, with its origins in the Enlightenment intersection of a new definition of fine art with a nascent system of commerce and the market. In other words, the art market as it exists today is set up to trade in objects of a very specific ontological structure. As globalisation has accelerated communication and exchange across disparate cultural settings, art works from non-Western contexts have been increasingly transplanted into this structure, distorting their identities and misreading their intrinsic ontological qualities.

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[50] George Bailey, "Authenticity of the artwork," in *A Companion to Aesthetics*, ed. David Cooper (Oxford: Blackwell Publishers, 2002), 32.

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The Faith Healer's Pledge: How early Mormons Captured Audiences

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Abstract: *This paper explores the use of faith healing in attracting converts to early Mormonism, by investigating the diaries and autobiographies of both converts and missionaries. It argues that while faith healing was technically banned from being used to convert people, it still played a specific but essential role as a 'clincher' for those on the brink of conversion. It explores faith healing in relation to the Mormon conversion process as a whole, and resolves the theologically inconsistent position on magic and supernaturalism. It contends that the use of faith healing in the Mormon missionary process has gone largely unacknowledged because previous scholars have prioritised official Mormon documents over unofficial personal writings.*

Key Words: *Mormon, Joseph Smith, faith healing, conversion, nineteenth century America, missionaries, diaries, autobiographies, life writings.*

INTRODUCTION

In 1831, Gilbert Belnap travelled to Kirtland, Ohio. He had heard that a third temple was being built there by the Mormons and wanted to see it for himself.[1] In his autobiography, Gilbert wrote of the temple, "the architecture and the construction of the interior of this temple of worship surely must have been of ancient origin as the master builder has said that the plan thereof was given by revelation from God, and *I see no reason why this should not be credited for no one can disprove it*."[2] He was enamoured

∗ I would like to thank my two anonymous reviewers for their helpful comments.

[1] While the Church would undergo several name changes before being named Church of Jesus Christ of Latter Day Saints, this paper will use the informal term for members of the Church – Mormons - and will refer to their religion as Mormonism. To read more on the church's renaming see "Minutes of a Conference," *The Evening and Morning Star*, vol. 2, no. 20 (1834). For renaming to Church of Jesus Christ of Latter Day Saints in 1838, see Michael Marquardt and Wesley P. Walters, *Inventing Mormonism: Tradition and the Historical Record* (Utah: Signature Books, 1994), 160.

[2] Gilbert Belnap, "Autobiography of Gilbert Belnap," in *Book of Abraham Project collection of Journals, Diaries, Biographies, Autobiographies and Letters of Some Early Mormons and Others Who Knew*

by the new faith almost immediately, yet Gilbert did not immediately convert. In fact he did not convert soon after either. It would take him another two years of study to be convinced that Mormonism was the true faith, and even then he only, "determined at some future date to obey its principles."[3] This delay would eventually end via a miraculous healing through faith. In his diary Gilbert recounted a day when he was bedridden with illness. A Mormon Elder named Jeremiah Knight visited him and the two made a deal, a deal which I call *The Faith Healer's Pledge*: "if he would raise me from this bed of affliction, I would obey his gospel." He soon felt healed. Two years of spiritual limbo had been broken, and Gilbert finally embraced the Mormon faith.[4]

Mormonism was founded in 1830 by Joseph Smith. The small time farmer who had worked as a treasure hunter and necromancer started his church with just six members. Supposedly after being visited by an angel, he had found golden plates underground that chronicled an Israelite tribe that had migrated to and lived in America. News of the prophet Joseph Smith spread, and the church quickly grew out of its humble beginnings. Just thirty years later the church boasted eighty thousand members, and up to fifteen million today.[5] This article investigates one small component of the missionary process, faith healing, which was a Mormon missionary technique that was so crucial to Belnap's story, yet often neglected in scholarship. What is so fascinating about Gilbert's story is how common it was. The diaries and autobiographies of both converts and missionaries reveal that many regularly developed cold feet on the brink of conversion. A miraculous healing from a Mormon Elder often broke this period. Faith healing is also particularly interesting because its role in conversion is somewhat a paradox: If converts like Gilbert were attracted to a religion that allowed for, and even encouraged extended intellectual inquiry and deliberation, why would they then be charmed by something as superstitious as faith healing? This article demonstrates that when we understand faith healing in its proper place within the missionary process, this seemingly paradoxical position is not just consistent with Mormonism's other missionary techniques, but is the logical endpoint of Mormon proselytising efforts.

HISTORIOGRAPHY

Historians have proposed multiple explanations for Mormonism's rapid growth in membership. Initially, scholars favoured socioeconomic causes, painting Mormonism as

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Joseph Smith, Jr. and/or His Contemporaries, accessed November 2, 2014, http://www.boap.org/LDS/Early-Saints/GBelnap.html.

[3] Ibid.

[4] Ibid.

[5] The current Mormon population is controversial, as the LDS church's calculations differ from the 2008 American Religious Identification Survey. See Rick Phillips et al., *Mormons in the United States 1990-2008: Socio-demographic Trends and Regional Differences* (Hartford: Trinity College, 2008), accessed June 30, 2015, http://commons.trincoll.edu/aris/files/2011/12/Mormons2008.pdf.

a refuge for America's forgotten. Though intuitively plausible, in recent times such explanations have been disregarded. We have since come to recognise that early Mormons were not particularly poor or uneducated.[6] In fact, there are even proposals that Mormons were wealthier than their non-Mormon counterparts.[7] Alternative explanations abound, but each ultimately focus on Mormonism's unique foundations within the environment of the Second Great Awakening. The specifics differ widely, but broadly speaking, historians generally agree that the period of 1790–1840, referred to as the Second Great Awakening, brought on the rapid foundation of new churches, the growth of others, and an abundance of sectarian disagreements between them. In the midst of this heavy competition, Joseph Smith was able to craft an attractive text that resolved most sectarian disagreements, all while invoked an ancient heritage and God's blessing.[8]

Scholarly work focusing specifically on missionaries has tended to analyse their skill at spreading news of Joseph Smith and his golden bible. Whether it be through their self-sacrificial dedication, their ability as preachers, or their work as authors and publishers, Mormon missionaries are recognised for disseminating the Mormon message across America and the world. Steven C. Harper makes passing reference to faith healing and missionaries, but only in the early 1830s and without recognising its prominence.[9] Faith healing, however, continued playing an important role even on international missions in the 1850s. Faith healing has likely been neglected because Mormon were officially prohibited from wielding it to proselytise. After a string of failed healings, Smith declared in August 1831 that such signs "would follow those that believe", rather than cause faith.[10] Scholars have generally assumed that Smith's instructions were followed. For example, in *Men with a Mission*, a study of Mormon missionaries in Britain, the authors state that while the gifts of the spirit were widely used, "there is no evidence, however, that they encouraged the missionaries to pray for it or use it as a conversion tool. It was a sign that followed belief, not an evidence for unbelievers."[11] On the other hand, the personal diaries and autobiographies of both Missionaries and their converts tell a different story. Though seemingly working against church policy, there is compelling evidence that Missionaries regularly employed faith healing as a missionary technique.

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[6] Marianne Perciaccante, "Backlash Against Formalism: Early Mormonism's Appeal in Jefferson County," *Journal of Mormon History* 19, no. 2 (1993).
[7] Stephen J. Fleming, ""Congenial to Almost Every Shade of Radicalism": The Delaware Valley and the Success of Early Mormonism," *Religion and American Culture: A Journal of Interpretation* 17, no. 2 (2007):131.
[8] Sydney E. Ahlstrom, *A Religious History of the American People* (New Haven: Yale University Press, 1972), 387; Winthrop S. Hudson, *Religion In America* (New York: Scribner, 1965), 172-173.
[9] Steven C. Harper, "Missionaries in the American Religious Marketplace: Mormon Proselyting in the 1830s," *Journal of Mormon History* 24, no. 2 (1998): 14.
[10] Spencer J. Fluhman, "Anti-Mormonism and the making of religion in Antebellum America" (PhD diss., University of Wisconsin, 2006): 97-98; Doctrine and Covenants, 63:9.
[11] James B. Allen, Ronald K. Esplin, David J. Whittaker, *Men with a Mission 1837-1841: The Quorum of the Twelve Apostles in the British Isles* (Deseret Book: Salt Lake City, 2009), 92-93.

BACKGROUND

Since Mormonism grew out of the Second Great Awakening, it is necessary to take a closer look at Mormonism's relationship with the movement. Mormons may have wielded faith healing techniques in the international mission, however, these strategies were clearly forged within North America. Starting in the 1790s, the Second Great Awakening was a cultural movement striving to get more Americans into church. Christians could and did choose to attend a multitude of sermons, debates and lessons on top of regular church services. The Methodist church alone grew from fourteen thousand members in 1784 to over a million by 1844.[12] With the increase in churches, came an increase in preaching. The ratio of preachers per capita reached an all-time high, and Americans were presented with a lively religious marketplace of Christian options. It can be difficult to collectively summarise these religious movements, but on the whole we can say that these churches demanded direct and immediate contact with the divine, longed for complete sanctification and excitedly awaited an impending millennial age.[13]

This religious revival hit its height around 1820, and indeed it was around this time Joseph Smith claimed he had his 'first vision'. The 'first vision' is an account of Smith's teenage years. He claimed he had prayed in the woods to find an answer to which of the many churches he should join. The figures of God and Jesus appeared before him, advising that he join none of them, as they were all false. In other words, Mormonism's origin story depicts the Second Great Awakening as a crisis, and Mormonism as its solution.[14] This places Mormonism at an odd relationship with the Second Great Awakening: Mormonism depicts itself in stark opposition to the religious pluralism it originated from.[15]

MISSIONARY WORK

What is quite interesting is that faith healing seems out of step with the process normally taken to spread the Mormon message. Unlike the emotional and mystical practice of something like faith healing, missionaries tended to favour careful, rational reasoning when searching for converts. The prolific Mormon pamphlet 'A Voice of

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[12] Nathan Hatch, *The Democratization of American Christianity* (Yale University Press: New Haven & London, 1989), 220.
[13] Winthrop S. Hudson, *Religion in America* (New York: Scribner, 1965), 172-173.
[14] Christopher C. Jones, "The Power and Form of Godliness: Methodist Conversion Narratives and Joseph Smith's First Vision," *Journal of Mormon History* 37, no. 2 (2011): 90.
[15] Contrast Hatch's *Democratization of American Christianity* with Marvin S. Hill, *Quest for refuge: The Mormon Flight from American Pluralism* (Signature Books: Salt Lake City, 1989), xi-xv.

Warning' perfectly illustrates the way Mormons shied away from emotional appeals.[16] 'A Voice of Warning' was still being printed and disseminated years after the original, and its arguments copied over and over by later pamphleteers.[17] The author, Parley Parker Pratt, opens the main body very clearly: "In order to prove anything from Scripture, it is highly necessary in the first place to lay down some certain, definite, infallible rule of interpretation." This lack of rule, he continues, is why there are so many opposing churches and sects, as well as why they are all invalidated: "the moment they departed from its [the bible's] literal meaning, one man's opinion, or interpretation, was just as good as another's."[18] Pratt laughs at the inauthentic interpretive skills of Mormonism's competitors. He argues that non-literal interpretations are akin to the biblical character Noah thinking he had to build a spiritual ark to defend against a spiritual flood. He goes on to argue that any prophecy that has not yet been *literally* fulfilled, will at some point be fulfilled in the future.[19] From here, Pratt demonstrates that Mormonism is the fulfilment of many of these prophecies. In other words, rather than appealing to faith and feelings, 'A Voice of Warning' claims that anyone who believes in the Bible must therefore accept the, divine wisdom of Joseph Smith, the new text he received, and even the Kingdom of earth being situated in America.

In the public mind, Mormonism was most famous for its more unique aspects: the Golden Bible, its American prophet, polygamy, and in contemporary times, 'temple garments' (sometimes derogatorily referred to as 'magical underwear'). However, missionaries shied away from these features. Instead, missionaries focused on the 'first principles': thoughtful arguments based on the Bible that resolved some of the most pressing sectarian controversies of that day. These focused on things such as Baptism by immersion, repentance of sins and the gift of the Holy Ghost.[20]

Scholars also used to consider early Mormons to be particularly suspicious and gullible. Just as they assumed Mormons were poor and uneducated, it was assumed that they must have been attracted to magic and superstition. As historian Steven C Harper points out, "...one finds the word 'reasonable' and its relatives used frequently by writers trying to describe what it was in Mormon theology that caused conversion in them."[21] Diaries like Robert Skelton's reflect the effort on the part of missionaries to attract such

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[16] Parley P. Pratt, *A voice of warning and instruction to all people. Or, An introduction to the faith and doctrine of the Church of Jesus Christ of Latter Day Saints,* 11th ed., (Salt Lake City: Deseret News company, Printers and publishers, 1881), first published 1846.
[17] David J. Whittaker, "Early Mormon Pamphleteering" (PhD diss., Brigham Young University, 1982), 61-62.
[18] Pratt, *A voice of warning.*
[19] Ibid.
[20] Price Jr, Rex. "The Mormon missionary of the nineteenth century", (PhD Diss., University of Wisconsin, 1991), 314.
[21] Steven C. Harper, "Infallible Proofs, Both Human and Divine: The Persuasiveness of Mormonism for Early Converts," *Religion and American Culture: A Journal of Interpretation* 10, no. 1 (2000): 101.

people: "He being a man of reason, gives me ample opportunity of laying before him; every subject connected with our holy religion. When one subject has been satisfactorily disposed of I introduce another."[22] Missionaries like Skelton clearly opted for carefully crafted arguments that appealed to people's sense of reason. In fact, it was often superstition that drove Mormons from their previous faith, including Gilbert Belnap:

> [I] had strove with all my might to obtain the same manifestations of the spirit with which they said they [The Methodist Ministers] were endowed. In spite of every exertion on my part in the honesty of my soul, I was compelled to acknowledge that I could not experience a similar manifestation to that which they, themselves professed to enjoy. From the deportment of this people, I soon became confirmed in the belief that the ministers only appealed to the feelings or the passions of the people, at least in many instances.[23]

For those disillusioned by the appeals to 'feelings and passions' of Second Great Awakening practices, Mormonism's approach gave the faith the exact legitimacy the converts felt was otherwise missing.

FAITH HEALING WITHIN THE MORMON COMMUNITY

Considering Mormon scepticism of magic and superstition, it is surprising that its followers could build such a strong culture around the supernatural doctrine of faith healing. While a few evangelical theologians flirted with faith healing in the 1830s, faith healing in America would not gain popularity until the 1880s.[24] Mormons meanwhile, were exploring faith healing as early as 1831. For them, faith healing was no folk magic: it was a metaphysical truth that was documented in the Bible, yet neglected by their contemporaries. Within the Mormon community, faith healing was so widely adopted it was a part of everyday life. Smith permitted every Mormon, man and woman, to wield this gift. Jonathan Crosby returned from a mission with small pox. His wife Caroline noted, "we often thought it a mercy that he...[was not] sent to some hospital." Instead, they gladly sent for a Church Elder who claimed he had contracted small pox from

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[22] Robert Skelton, "Diary Entry November 12," *Skelton, Robert Hodgson vol. 1, 1852-1856*, 1854, L. Tom Perry Special Collections, Harold B. Lee Library, Brigham Young University.
[23] Gilbert Belnap, "Autobiography of Gilbert Belnap."
[24] Jonathan A. Stapley and Kristine Wright, "Female Ritual Healing in Mormonism," *Journal of Mormon History* 37, no. 1 (2011): 4; Raymond J. Cunningham, "From Holiness to Healing: The Faith Cure in America, 1872-1892," *Church History* 43, no. 4 (1974): 502; Heather D. Curtis, "Houses of Healing: Sacred Space, Spiritual Practice, and the Transformation of Female Suffering in the Faith Cure Movement, 1870-90," *Church History* 75, no. 3 (2006): 600.

vaccinations, but had overcome the disease on two occasions.[25] A fear of hospitals was hardly unique in nineteenth century North America, as the overcrowded hospitals were for the poorest of society who could not afford the one-on-one care of a home visitation.[26] Regardless, it is apparent that Mormons believed that spirituality and ritual could produce tangible results just as well, if not better, than conventional medicine. When Caroline joined a mission to Tahiti in 1850, she wrote of the ability of Mormon faith to protect the group from illness:

> There was one of the sister[s], viz Sister Gilbert delivered prophesy in the name of Jesus that if the camp did not seek peace and union and strive to keep the commandments of God, we should be afflicted with sickness or some other trial. But if we maintained union and the love of God in our Midst we should be abundantly blest, it was confirmed by Captain Huntington who said it was true in the name of Jesus.[27]

Caroline's sister, Louisa Barnes, who as mentioned above had already lost her life savings, was worried she could lose her children as well. Louisa feared they had contracted small pox when they visited Uncle Jonathan. Desperate to help them as soon as possible, she herself laid her hands upon them and healed them both.[28]

One Mormon faith healer of note is the experienced Benjamin Brown. He performed far too many healings throughout his life to recount in this article, administering to the community, healing infectious wounds, poison victims, restoring sight, and when he was ill, was even healed by Joseph Smith himself. His accounts seem to be nothing short of miraculous:

> I found her head, where the cancer had broken out, a dreadful sight, full of cancer worms, which were eating into the scull, three pieces of which had come out! I anointed her head with oil, and prayed the Lord in her behalf...The next time I saw her was the following Sunday, when I met her at the meeting. She pulled off her cap, and showed me her head. It was entirely healed, and the flesh was as sound as ever. She said that within half an hour after my administering to her, she felt all the pain,

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[25] Caroline Crosby, "Memoirs, 1807 to September 1846," in *No Place to Call Home: The 1807-1857 Life Writings of Caroline Barnes Crosby, Chronicler of Outlying Mormon Communities,* edited by Edward Leo Lyman, Susan Ward Payne and S. George Ellsworth (Utah: Utah State University Press, 2005), 61.
[26] Charles E. Rosenberg, *The Care of Strangers: The Rise of America's Hospital System* (Baltimore: Johns Hopkins University Press, 1995), 20.
[27] Caroline Crosby, "Journal, May 7 to August 16," in *No Place to Call Home*, 101, 149.
[28] Louisa Pratt, "History of Louisa Barnes Pratt", 74.

> which had previously been intense, and, to use her expression, "like a thousand gimlets boring into her brain," leave her entirely, and the wound healed up rapidly.[29]

The very concept that such healings were possible had profound effects on Mormons. In fact, doctors were often turned away in favour of Mormon blessings. After Jesse Crosby had been struck by a falling branch in the woods, Brown recounts that Jesse's non-Mormon father had first fetched a doctor, "who pronounced Jesse's case desperate."[30] The doctor evaluated that Jesse required an operation, however, Jesse's Mormon mother never let the doctor perform it. Instead, she sent the doctor away and called on Benjamin Brown, the veteran faith healer. Brown successfully healed Jesse, "*In less than four days*, from the time of receiving this terrible accident, from which there seemed no human probability that he could recover, or, if he did, only to survive the loss of reason, he was again at work in the woods, hauling timber, the wound being entirely healed up."[31] However, it is interesting to note that this account differs from Jesse's own autobiography. Jesse Crosby writes in his own account, "I was able in *about three week*s to follow my former avocation and driving teams", which is considerably longer than Brown's insistence it took only four days.[32] Inconsistencies aside, both Jesse and Benjamin view the healing as unquestionable evidence that their faith was more powerful than the medical knowledge of any man.

Though Mormon missionaries made intellectual rather than emotional appeals, it is quite clear that faith healing was a staple of the Mormon community. One could argue there are two different kinds Mormons; those attracted to intellectual arguments and those attracted to supernaturalism, however the accounts of both Jesse Crosby and Caroline Barnes exemplify how early Mormons both praised faith healing while criticizing supernaturalism. Jesse for example, was not confident that a particular village would be open to conversion as "We had to clear the ground of heaps of superstition before any seed could be sown to advantage."[33] Caroline meanwhile, scoffed at things like telepathic communication after having "an opportunity of proving the *fallacy* of the spiritual telegraph system."[34] Jesse and Caroline both advocate faith healing while lambasting other forms of supernaturalism, as such; it would be a mistake to view emotional and intellectual attitudes as mutually exclusive. The conversion narratives that involve faith healing illuminate the complex relationship between Mormon rationalism and

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[29] Benjamin Brown, *Testimonies for the truth a record of manifestations of the power of God, miraculous and providential, witnessed in the travels and experience of Benjamin Brown* (London: S. W. Richards, 1853), 11-12.
[30] Ibid, 14.
[31] Ibid.
[32] Jesse Crosby, "The history and Journal of Jesse Wentworth Crosby," in *Book of Abraham Project collection.*
[33] Ibid.
[34] Caroline Crosby, "Journal and Memoirs, August 1850 to September 1852," in *No Place to Call Home*, 149.

supernaturalism: Mormons, and their converts, generally held certain intellectual assumptions, and would embrace any supernatural practice that logically followed from those assumptions.

FAITH HEALING WITHIN THE MISSIONARY PROCESS

Mormons were not purely outward focused. While on mission, proselytising was their priority, but by necessity missionaries took on multiple roles such as judges, arbitrators, publishers, advisers or accountants.[35] As a result, the internally focused faith healing and the outwardly focused proselytising frequently began to blend together. Reading Theodore Turley's diary of his mission in Britain, one would think that he spent the entire year doing nothing other than healing, preaching, and baptising. In April 1840 Turley was thrown in prison. Yet, so focused was Turley on preaching and healing, he neglects to note why he had he was actually jailed. Instead, he writes of his newfound opportunity to preach to inmates.[36] Most likely he was jailed for debt related reasons as he wrote "to some of the debtors the first Principls [sic] of the Doctrins [sic] of Christ", however, this also further illustrates how passionate he was to spread the Mormon message.[37] Unlike his preaching, healings were theoretically reserved for saints. However, Turley occasionally attended to gentiles who were ill, blurring the lines between proselytising and faith healing. Healing and preaching were often done at the same time. As Turley wrote on July 20th, 1840, "This Day I visited the saints in & about Bolton Laying hands on the sick & c. I Preached at night in the open are to a Large Congregation numbers believe I had 4 follow me to my lodgins [sic] to enquire after the truth I was on till twelve at night."[38] This interest would not lead to conversion, but created enough curiosity to give missionaries the chance to present their case.

There are often gaps, but missionary diaries still show a close link between faith healing and conversion in missionary diaries. For example, Abraham Owen Smoot confirmed a man named Dr. Young on the evening of December 12, 1841. The next day, Smoot's entry reads: "Dr. Young's, layed [sic] hands on him and rebuked the decease [sic], he was healed forwith [sic]."[39] In order to make sense of the entry, we can assume that decease should read as disease, but the relevant issue is that Smoot does not just bless

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[35] William Mulder, *Homeward to Zion: The Mormon Migration from Scandinavia* (University of Minnesota press, Minneapolis, 1957), 49-51; Harper, "Missionaries in the American Religious Marketplace", 6-7.
[36] Theodore Turley, "Tuesday April 14th 1840," *Turley, Theodore vol. 1, 1839-1840,* 1840 L. Tom Perry Special Collections, Harold B. Lee Library, Brigham Young University.
[37] Theodore Turley "Monday April 27th 1840," *Turley, Theodore vol. 1.*
[38] Theodore Turley "Monday July 20th 1840" *Turley, Theodore vol. 1.*
[39] Abraham Owen Smoot "December 12th, 13th 1841," *Smoot, A. O. vol. 1, 1836-1846,* 1840 Tom Perry Special Collections, Harold B. Lee Library, Brigham Young University.

the Doctor for his general health, but actively heals him the day after his confirmation. It seems likely that the topic of faith healing came up at some stage before the actual conversion. Dr Young was clearly interested in Mormonism, and it is plausible that Smoot may have offered healing as an option for the sick doctor.

If employed on non-believers, faith healing could easily backfire. Though attempts were made, a hostile audience was never turned by the otherwise powerful tool of faith healing. Oliver Huntington learned the hard way that the gifts of the spirit only appealed to the curious. One day after a lively sermon, some of the audience followed the preachers to the home in which they were staying. Oliver wrote, "they wanted a sign or a witness that Miracles could be done; and just then steps up a woman and testifyed [sic] of her being healed, and several more testifyed [sic] to that and other instances of the sick and lame being healed by the laying on of hands; but still they would not believe."[40] Far from helping, the mob became more enraged. In the end the preachers resolved to simply ignore them.

Louisa, who as noted earlier healed her own children, had actually first heard of the Mormons in 1834 through the stories of their faith healing. One of her sisters, Lois, was deathly ill, right around the time she heard rumours of the Mormons visiting a neighbouring town. Apparently, these strange people could heal through faith. Louisa rushed there in search of search of the preachers she hoped would save her sister. On her way to find the missionaries, she discussed the purpose of her journey with some Presbyterians she had met on the road. They convinced her that the Mormons were nothing more than frauds and tricksters, and she went home disappointed. Lois died from tuberculosis later that year.[41] The attraction of Faith healing could not withstand anti-Mormonism, even when a life was at stake.

In hindsight, we know that when Louisa finally did convert to Mormonism, she was quite passionate about faith healing. At first it seems surprising that she was so easily dissuaded from seeing the healers, but again, faith healing was not particularly convincing unless it rested on a theologically Mormon foundation. Louisa did not think about the Mormons for the year after Louis's death. It was only a year later when she was visited by Caroline, that she would consider the subject again. The two had not seen each other in years, and there was much to catch up on. Louisa found out that Caroline had since married Jonathan, and that the two were now Mormons headed for Kirtland, Ohio, where the temple was still being built. Louisa had forgotten all about Mormonism and faith healing, but after discussing it with her sister for a month, and being presented with a book of Mormon to look over, Louisa was thoroughly convinced that the faith was true.[42]

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[40] Oliver Boardman Huntington "Diary entry, October 25th," *Huntington, Oliver Boardman book 4*, 1846 Courtesy Special Collections, Harold B. Lee Library, Brigham Young University, Provo, UT 84602.
[41] Louisa Pratt, "History of Louisa Barnes Pratt", 48-51.
[42] Louisa Pratt, "History of Louisa Barnes Pratt", 55.

While Louisa converted after being convinced, many in similar situations would not take the step of identifying as Mormons. However, this is where faith healing would be employed to success. Up to this point, an interested convert had heard a little about Mormons, listened to preaching or read some pamphlets. They then had much of their more subtle questions answered by Mormon missionaries. Perhaps it was around this time that they started to closely analyse the Book of Mormon in order to corroborate all they had learned, however so few Mormons mention the book of Mormon in reference to their conversion that it is difficult to tell whether they read it at all. They were convinced of Mormonism's validity, yet still balked at officially declaring themselves Mormon. This is not too surprising, as the magnitude of conversion makes it an incredibly rare phenomenon.[43] It was at this point that Mormons helped converts warm up their cold feet by introducing them to faith healing. Previously missionaries had made their case, and the listener believed. Now was time for signs to be provided that logically followed from that faith.

Daniel Williams had first heard of Mormonism after reading a pamphlet. As with many other examples I have used, portions recounting his conversion clearly draws a link to faith healing. Like Gilbert, he found the faith appealing, except in his case, rumours scared him away for years from listening to Mormon preachers. Even when he finally met them, he did not convert immediately. In Daniel's account of his eventual conversion, though not stating it was due to faith healing, it is clear that his story about his healing is an integral part of his conversion narrative:

> I was invalided when I was baptised and had been under the care of two doctors for five months previous to my baptism. My disease was Ulcerations of the Intestines, which had brought me nearly to the gates of Death -- After my Baptism the Doctors gave me up for dead declaring that they could do nothing more for me -- I then called for the Elders of the Church Elder W Davies came and anointed me with oil in the name of the Lord and laid his hands on me and prayed the Lord to heal me I felt the healing power of God pass through my whole frame in an instant like electricity driving before it every pain and disease which I had been suffering for so long.[44]

While Daniel does not reference an actual pledge, his healing comes at the end of a long process of considering conversion to Mormonism.

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[43] Henri Gooren, "The Religious Market Model and Conversion: Towards a new approach," *Exchange* 35, no.1, (2006): 51. While there are ongoing debates in sociology about conversion rates, there is no question that a vast minority of people actually convert to another religion.

[44] Daniel Williams, *Diary of Daniel Williams vol.1*, 1847, L. Tom Perry Special Collections, Harold B. Lee Library, Brigham Young University.

Daniel Williams' story is not the only example that illustrates the pledge so bluntly. Long before his bought with small pox, Jonathan Crosby had been resistant to conversion. He had been thoroughly convinced of Mormonism, explicitly referencing contemporary sectarianism, "If the Bible is true, why don't you preach, teach it all alike? Why all this division in the world?"[45] But on the day of his baptism, "...I supposed a good many people would obey the gospel. But how disappointed I was when I found that only one young man besides myself, and four females, received their teachings." In the end, Jonathan was not baptised that day. Surprised that so few had joined the Mormons, Jonathan second-guessed whether Mormonism was as obviously true as he had thought. He was however convinced that joining the Mormons would heal his physical ailments. He noted, "I had two sores on me; one was a burn, and the Spirit said, those sores will never get well if you do not obey the gospel. The sores had been on me a long time, and I could not heal them with anything I could put on them and they grew larger all the time, although quite small at first."[46] Upon being baptised on December 2nd 1833, Jonathan was not just emotionally changed, but claimed that the baptism changed him physically as well. He wrote that, "the burden left my mind and I felt free and light as air and my sores were soon healed."[47]

Oliver Huntington made the same kind of deals to potential converts in England as those that were made to Jonathan and Gilbert by Mormon missionaries. During his British mission from 1846-1847, the saints fretted over whether they should turn away a gentile that outright asked for healing, and Huntington wrote in his diary, "Brother Dudley took me out doors & wanted council of me to know it would be wisdom to lay hands on her, as he expected that was what she wanted, for she had requested it before, and yet she had not been babtised [sic]. I told him to do it, if she would covenant to obey the Gospel if she was restored."[48] The spontaneity of this deal probably helps explain why it has remained somewhat hidden from scholarly view, especially since these accounts sit within a grey area of Mormon policy on the use of faith healing. Either way, this offer made by Oliver reflects the wider offer made by Missionaries to potential converts, in the hope of confirming the conversion.

CONCLUSION

This investigation of Mormon diaries and autobiographies has revealed that faith healing was not just an internal Mormon practice. Faith healing played a major role in the

[45] Jonathan Crosby, "A biographical sketch of the life of Jonathan Crosby written by himself," in *Book of Abraham Project collection.*
[46] Ibid.
[47] Ibid.
[48] Oliver Boardman Huntington "Diary Entry, October 9," Huntington, Oliver Boardman book 3, 1846 Courtesy Special Collections, Harold B. Lee Library, Brigham Young University, Provo, UT 84602.

Mormon conversion process, even if it was indirect and unofficial. Rather than being something contradictory to Mormonism's argument based proselytising efforts, acceptance of faith healing was in fact its logical endpoint. But the practice was only for those who had already accepted Mormonism's intellectual basis. As a result, faith healing straddled a line between internal and external Mormonism. Without a basis that believed in a logically consistent bible, faith healing failed to capture attention for long, or would even turn people against the faith.

These findings also have much wider implications. For example, the role of faith healing is just one small part of Mormonism that can only be illuminated through the analysis of personal writings. Placing a larger emphasis on Mormonism as it was actually practiced in everyday life, rather than how the religion was depicted theologically, can aid scholars in understanding the faith's rapid growth. In a sense, rather than thinking of Mormons as people who follow Mormonism, we should instead think of Mormonism as comprising a set of practices and ideas that that Mormons followed and believed in. While this can sound almost redundant, it is more useful to focus on what a group actually believes, rather than hold them up to a hypothetical standard that no one on the ground actually maintained. This sentiment can be applied to a wide range of group beyond the Mormons: studies of any group made up of people who voluntarily associate based on ideology, whether it be on a religious or political basis, could benefit greatly by reversing our focus. By understanding what people actually did, we can separate the practices from the rhetoric.

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Redeeming Fitzpatrick: Ned Kelly and the Fitzpatrick Incident

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Abstract*. In April 1878 Constable Fitzpatrick was wounded by Ned Kelly while attempting to arrest his brother Dan for horse stealing. The incident triggered the "Kelly outbreak" that elevated Ned to the status of Australia's most notorious historical figure. Ever since the event Fitzpatrick has been almost universally labelled a liar and perjurer, and the various records of his testimony in two trials and a Royal Commission have been assailed as fanciful and unlikely concoctions. This article reconstructs and vindicates Fitzpatrick's version of events after some 140 years of denigration. Ned and his family and associates' various statements and denials about the event emerge as a series of ever-shifting self-serving fabrications that, together with other evidence, raise doubts about much other prevalent Kelly mythology.*

Keywords*: Ned Kelly, Kelly Gang, Alexander Fitzpatrick, Fitzpatrick Incident, Fitzpatrick Affair, Constable Fitzpatrick, bushrangers, Australian bushrangers.*

The attempted arrest of Dan Kelly at his mother's house on suspicion of horse stealing by Constable Alexander Fitzpatrick on 15 April 1878, Fitzpatrick's wounding in the course of the event, and the arrest and subsequent gaoling of Mrs Kelly and others on a charge of aiding and abetting the attempted murder of Fitzpatrick, was the trigger for what became known as the Kelly outbreak.[1] It was immediately after this incident that Ned and Dan Kelly, together with Joe Byrne (and to be joined mid-year by Steve Hart), disappeared into the bush until the Stringybark Creek shootings on 26 October, almost six and a half months later.[2]

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[1] The trigger: McIntyre deposition, Beechworth, 7 October 1880, "Ned Kelly said to me [at Stringybark Creek], 'Why I broke out was that b____ Fitzpatrick was the cause of all this'", *Age*, 9 August 1880, 3; cf. Edward [Ned] Kelly, *Jerilderie Letter* (SLV MS 13661, February 1879), 19-20; Standish, *RC* Q181; *RC2* 1881, ix; Francis Hare, *The Last of the Bushrangers* (London: Hurst and Blackett, 1892), 97; Ian Jones, *The Fatal Friendship*, rev. ed. (South Melbourne: Lothian, 2003), 58.

[2] Hart was released after 12 months imprisonment for unlawfully using horses. "Prisoners Discharged, Week Ending 17 June" *Police Gazette* 1878. He joined the Kellys soon afterwards, Steele, *RC* Q9133.

The ensuing Kelly saga has been described as "a quintessential Australian story".[3] The government website *Australia.gov.au* notes that "more books, songs and websites have been written about Ned Kelly and the Kelly Gang than any other group of Australian historical figures".[4] Yet in their day the Kellys were merely notorious Greta stock thieves and larrikins, of no other significance until the Fitzpatrick incident, during which ex-convict Ned also first declared that "he would never again be taken alive".[5] Much discussion of the Kellys has been underpinned by theories of colonial socio-political relations focussed on "land wars, squatter tyranny and police harassment".[6] Some commentators even see Ned as a republican rebel hero and a "messiah of Australian democracy".[7] Such approaches confuse history with fantasy. This first full critical reconstruction of Fitzpatrick's narrative after 140 years of denigration demonstrates how far prevalent Kelly mythology is from historical truth.

Discussion of the Kelly outbreak has for the most part condemned Fitzpatrick's attempt to arrest Dan as an unauthorised, drunken and oafish escapade, followed by deliberate lying and exaggeration to his superiors as to what happened at the Kellys (where he was unquestionably assaulted), and perjury about the event in the resulting court case in which Mrs Ellen Kelly, William (Bill) Skillion and William ("Bricky") Williamson were sent to prison for substantial terms.[8] Fitzpatrick himself is typically introduced as one "whose first year in the force had been a chapter of unreliability, bad company, narrow scrapes, and a fondness for liquor".[9]

Yet there are reasons to doubt this damning portrait, not least of which is a petition signed by over a hundred prominent residents of Lancefield seeking Fitzpatrick's reinstatement to the force after his summary dismissal in April 1880.[10] In the light of recent work defending much of the police activity in the pursuit of the Kelly gang, it is

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[3] Peter FitzSimons, *Ned Kelly: The Story of Australia's Most Notorious Legend* (Sydney: Heinemann, 2013), xi.
[4] http://www.australia.gov.au/about-australia/australian-story/ned-kelly, accessed 15/7/2015.
[5] The "notorious "Greta Mob," as it was termed", *Argus*, 30 October 1878, 6; *Argus*, 22 April 1878, 3.
[6] Ian Jones, *Ned Kelly: A Short Life*, new ed. (South Melbourne: Lothian, 2003), x; the quote, Doug Morrissey, *Ned Kelly: a Lawless Life* (Ballarat: Connor Court, 2015), xi.
[7] Jones, *Short Life*, 191-2, 200-1, the quote, Max Brown, *Australian Son*, rev. ed. (Sydney: Angus & Robertson, 1981), x.
[8] Exemplified in George W. Hall, *The Kelly Gang, or The Outlaws of the Wombat Ranges* (Mansfield: G.W. Hall, 1879), 25-7, and Jerome J. Kenneally, *The Inner History of the Kelly Gang* [1929] 4th ed., (Melbourne: Roy Stevens, 1945), 48, 50. Mrs Kelly was sentenced to 3 years imprisonment, the others to 6 years each, all with hard labour, *O&M*, 15 October 1878, 3.
[9] Jones, *Short Life*, 97. The pattern is established through a number of sources, including, *RC2* 1881, x ("a very indifferent character"; "adverse opinions of Fitzpatrick"; "a liar and a larrikin"); cf. Frank Clune, *The Kelly Hunters: the authentic, impartial history of the life and times of Edward Kelly, the ironclad outlaw* (Sydney: Angus & Robertson, 1954), 129, "a liar, a perjurer and a drunkard"; Graham Jones, *Ned Kelly: The Larrikin Years* (Wangaratta: Charquin Hill, 1990), 69, a career "as short as it was unsatisfactory"; Kenneally, *Inner History*, 62; John Meredith and Bill Scott, *Ned Kelly after a Century of Acrimony* (Sydney: Landsdowne, 1980), 18; FitzSimons, *Kelly*, 130.
[10] Lancefield petition, VPRS 4969 Unit 1 Item 30.

timely to review the background and sequence of events of the Fitzpatrick incident.[11] It will be argued that a demonstrably wrong condemnation of Fitzpatrick and his actions continues to be recycled by partisan historians as a key justification for Ned Kelly's self-declared war on the police force of his day.[12] The extent to which Kelly could claim any justification from this incident for his subsequent actions will also be considered.

Alexander Wilson Fitzpatrick was born in 1856 and was working as a boundary rider when he was recommended by Crown Prosecutor Charles A. Smyth to Chief Commissioner Frederick Standish as a prospective police recruit.[13] He joined the force on 20 April 1877, received three months mounted police training at Richmond Depot, and was then stationed at Benalla from 1 August.[14] Const. Thomas McIntyre, the sole survivor of the later Stringybark Creek shootings, knew him from this period. He was never stationed with Fitzpatrick but knew him casually, and described him as "a decent young fellow".[15] Despite some difficulties in his personal life, he seems to have conducted his duties responsibly.[16] No negative remarks or disciplinary comments were recorded against him during the 12 months to April 1878, and he was still regarded positively and as efficient in June 1878 on his transfer to Beechworth.[17] Not until 1879 did his Record of Service slide towards the tarnished reputation for which he has been remembered and reviled.

On Thursday 11 April 1878, Inspector Brooke Smith in Beechworth, who would know Fitzpatrick's duty roster for the week, telegraphed Sgt. Whelan, Officer In Charge (OIC) Benalla, that upon his return from duty elsewhere, Fitzpatrick was to take charge

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[11] Kate Spinks, "A Forgotten History of the Kelly Gang: Stories from Victoria Police", in *Conference Papers*, Museums Australia National Conference, 2010; Ian MacFarlane, *Unmasking the Kelly Gang* (South Melbourne: Oxford University Press, 2012); Elizabeth Marsden, "The Police Perspective", in Craig Cormick ed., *Ned Kelly Under the Microscope* (Collingwood: CSIRO Publishing, 2014); Morrissey, *Lawless life*.

[12] Edward [Ned] Kelly, *Euroa Letter*, (VPRS 4966 Unit 1 Item 3, 14 December 1878), 16-7, "I will seek revenge … while god gives me the strength to pull a trigger"; Gloster deposed at the Beechworth Assizes that at Faithfull's Creek (9 December 1878) Ned Kelly had said "The police are my natural enemies" and that if his mother was not released soon "he would possibly overturn the train", VPRS 4961 Unit 1 Item 6; Reardon testified that Ned said at Glenrowan, "I expect a train from Benalla with a lot of police and black fellows, and I am going to kill all the —", *RC* Q7607; Kelly quoted in *Argus*, 29 June 1880, 5, that he had "intended to rake it with shot"; cf. Curnow, *RC* Q17597, lines 30-3.

[13] Justin Corfield, *The Ned Kelly Encyclopedia* (South Melbourne: Lothian, 2003), 163 - Fitzpatrick was born at Mount Egerton, Victoria; Standish, *RC* Q182; for Smyth's career, *Argus*, 17 June 1908, 7.

[14] Alexander Fitzpatrick 2867, *Record of Conduct and Service*, in VPM 10018; Police Muster Rolls, VPRS 55 Unit 7 (1877, Ovens).

[15] McIntyre prosecution brief (cross-examination), 7 August 1880, VPRS 4966 Unit 1 Item 6.

[16] His fiancée was pregnant and he was already paying maintenance elsewhere; see Corfield, *Encyclopedia*, 163.

[17] Fitzpatrick, *Record of Service*. Nothing against Fitzpatrick's character was brought to Standish's attention before his posting to Benalla (*RC* Q182-3); it then had nothing to do with his duty but his postponed marriage to a pregnant woman (Jones, *Short Life*, 96). Whelan (OIC Benalla) said nothing adverse to the 1881 Royal Commission about his behaviour or character during his more than 9 months at Benalla.

of Greta police station during OIC Strahan's temporary absence.[18] That same day Fitzpatrick would have left on a 25 mile journey by horse to Cashel, sent for two days duty at a race meeting which must have been on the Friday and Saturday.[19] He doubtless slept at Cashel police station again on Saturday after his day's work, left for Benalla on Sunday morning, and unsurprisingly did not return "in the forenoon".[20] Ian Jones and others who have accused him of laxity, and returning shamefaced a day late to Benalla, have ended the races on the Friday and failed to allow a good half day for travelling each way to Cashel.[21] Whelan would not have expected him back before Sunday afternoon, and accordingly despatched Const. Healy to Greta to stay overnight and patrol back on Monday 15th. Healy returned at 1pm Monday, and Whelan duly despatched Fitzpatrick at 2pm.[22] This was to be Fitzpatrick's first acting OIC position, and clearly he was thought capable of fulfilling it .[23]

On what must from the following have been that Monday morning, Fitzpatrick read in the current *Police Gazette* that Dan Kelly and his cousin John ("Jack") Lloyd were wanted on warrants sworn at Chiltern for horse stealing.[24] Fitzpatrick had seen Dan riding a mare "two or three days previous to that", i.e. on the Friday or Saturday, while at Cashel.[25] Years later he recalled of that Monday that he had been on duty at Cashel two days earlier, and had met Dan "with a young fellow named Lloyd" while returning, i.e. on the Sunday.[26] Most have assumed these refer to the same encounter with Dan, but the contexts are different. The first is about him recognising Dan's mare at the Kelly's later that Monday afternoon; the second is about him having met Dan with a Lloyd on the way back to Benalla. He said to Whelan that if he found Dan at home on his way to Greta, he would arrest him and take him along to the Greta lock-up.[27] Whelan knew that Fitzpatrick had seen the *Gazette* notice, and either said or confirmed that there was a warrant out for

[18] "As soon as M.C. Fitzpatrick returns send him to Greta. S.C. Strahan will have left", telegram, Brooke Smith to Whelan, 11 April 1878 and endorsements, cited by Jones (*Short Life*, 97, 382), who noted that Whelan erroneously said 12 April in *RC* Q5944.
[19] Whelan, *RC* Q5944; Fitzpatrick in Brian W. Cookson, "*The Kelly Gang from within: Articles written by Brian W. Cookson for the Sydney 'Sun", 27 August to 24 September 1911*", compiled and edited by Brian McDonald (Bondi, N.S.W.: Australian History Promotions, 2005), 93 (23 September).
[20] Whelan, *RC* Q5944. Dookie police station had recently been renamed Cashel (*Police Gazette* 1878, 80).
[21] Jones, *Short Life*, 97; FitzSimons, *Kelly*, 130. (Kenneally, *Inner History*, 48 wrongly had Fitzpatrick return "on Monday forenoon"; he returned Sunday 14th, Whelan *RC* Q5944.)
[22] Whelan, *RC* Q5944.
[23] Fitzpatrick, *RC* Q12836.
[24] *Police Gazette* 10 April 1978, 110; seen by Fitzpatrick, cross-examination, *Argus*, 22 May 1878, 10; cf. Fitzpatrick, *RC* Q12812. Warrants issued 5 April; for Dan's, VPRS 4966 Unit 1 Item 4.
[25] Fitzpatrick, *RC* Q12822.
[26] Fitzpatrick in Cookson, "*Kelly Gang"*, 93 (23 September).
[27] Fitzpatrick, *RC* Q12841; Greta lock-up, *RC* Q12848.

Dan.[28] Fitzpatrick subsequently headed for Greta, and would attempt to arrest Dan on the way.

Regardless that Whelan knew Fitzpatrick's intention, many have insisted that Fitzpatrick's call at the Kellys was unauthorised or dubious. This view rests on any combination of four claims to be examined below: that Fitzpatrick did not have a warrant to arrest Dan in his possession and so was acting without requisite authority; that Fitzpatrick and the other police of the district had been directed by Superintendent Charles Nicolson that the Kelly house was a dangerous place, and was not to be visited by a policeman unless accompanied by at least one other officer; that Fitzpatrick was not ordered to make the arrest but was acting more on an alcohol-fuelled whim; and that he was at least as much interested in seeing the daughter Kate Kelly than in any official business concerning her brother Dan.

Fitzpatrick was legally empowered to arrest Dan on the basis of a notice of a warrant for stock theft published in the *Police Gazette*.[29] Mrs Kelly's alleged challenge to Fitzpatrick, echoed by many since, that he could not arrest Dan because he could not produce a written warrant, is unfounded.[30] It was usual for, and, under the *Police Offences Statute* the legislated duty of, police to arrest persons wanted for larceny (and other matters), whether or not they had a written warrant in their possession at that moment.[31] The arrested person would then be remanded to the place specified when the warrant was issued. Even without any warrant, a policeman had a duty to arrest a person where he had a reasonable suspicion of that person having committed a crime.[32] In this case Fitzpatrick knew from the *Gazette* that there was a warrant, and Mrs Kelly and others did, in some way to be examined, prevent the lawful attempt of Fitzpatrick to arrest Dan from being carried out.

It has been claimed that Fitzpatrick disregarded an order by Supt. Nicolson that no policeman should go unaccompanied to the Kellys.[33] Nicolson told the 1881 Royal Commission that in April 1877 he had visited the Kelly house on his way to Benalla. He

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[28] Whelan, *RC* Q5949; Fitzpatrick, Benalla deposition, 17 May 1878, VPRS 4966 Unit 1 Item 4; cf. Fitzpatrick, *RC* Q12816.

[29] See *Police Offences Statute 1865*, Secs.19, 61.

[30] Kelly, *Euroa Letter*, 6, "Mrs. Kelly said he [Dan] need not go unless he liked without a warrant. She told the trooper he had no business on her premises without some authority besides his own word"; Mrs Kelly in Cookson, "*Kelly Gang"*, 7 (28 August), "he had no warrant or anything"; cf. Hall, *Outlaws*, 23, 25; "*Kelly's Defence by a Lady*" [1880], VPRS 4967 Unit 1 Item 52; Clune, *Kelly Hunters*, 133. Fitzpatrick testified that "Mrs Kelly never asked me to see the warrant", *O&M*, 10 October 1878, 5.

[31] Whelan, *RC* Q5951; Fitzpatrick, *RC* Q12813-4; *Police Offences Statute 1865*, Sec.56. Questioning of the acceptability of this standard practice did not in any event apply to police in uniform whose authority was evident; Judge Cope was quoted in May 1876 on this question (see Jones, *Larrikin Years*, 73).

[32] Whelan, *RC* Q5951.

[33] John McQuilton, *The Kelly Outbreak 1878-1880* (Carlton: Melbourne University Press, 1987), 85, "disobeying the specific order given by Sergeant Whelan and the general order issued by Nicolson, he detoured to the Kellys, alone"; William Joy and Tom Prior, *The Bushrangers* (Sydney: Shakespeare Head Press, 1963), 80-1, "Fitzpatrick had been ordered to ride straight to Greta and not to visit the Kelly home alone under any circumstances"; cf. Clune, *Kelly Hunters*, 129.

took Const. Hayes from Greta with him part of the way and "instructed him", just as he said he had Const. Thom (OIC Greta), "and warned him never to go near that house, and to tell the other police that came there [i.e. to Greta] never to go near that house alone [as they were absolutely dangerous all through]; … simply because I knew if there were two constables together, bad characters were always afraid to proceed to extremities with them, because [one] constable is a witness and support to the other".[34] Yet there is no evidence that Nicolson ever made his instruction or warning known outside of these verbal warnings to the two police then at Greta in early 1877. Had any formal instruction or order existed, Nicolson would have cited or produced it to the Commission during his response to Q1035-6.

Certainly Fitzpatrick was not aware of "any regulation in that district … that no single constable should go to arrest characters such as Dan Kelly",[35] and he had worked there for over 8 months. If Fitzpatrick had breached a direct instruction by Nicolson this would necessarily have led to disciplinary action or at least some internal correspondence, but there is not a single notation against him. Whelan agreed with Fitzpatrick's intention to arrest, despite some misgivings about his personal safety, and said nothing to oppose it. He advised Fitzpatrick only to be careful, as the Kellys were thought dangerous and likely to resist.[36] For his own part, Fitzpatrick knew the Kellys.[37] He was confident that Dan would not resist arrest, (which initially proved correct), and that he was quite capable of taking him away if he did resist.[38] He also believed that Ned would not be home as the police were then searching for him on a warrant related to an ongoing horse-stealing investigation.[39] The arrest attempt was clearly known and sanctioned, and no order or regulation was breached in the process.

It has been argued that because Whelan did not directly order Fitzpatrick to arrest Dan, the attempt was an independently conceived action taken on a whim.[40] A common variation on this theme is that Fitzpatrick's decision to make the arrest in the first place

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[34] Nicolson, *RC* Q1035-6, cf. Q1020. Nicolson had visited the original ("old") hut on the Kelly selection.
[35] Fitzpatrick, *RC* Q12815.
[36] Fitzpatrick, *RC* Q12817-8, Q12837-41, Q12847, Q12850; Whelan, *RC* Q5950; cf. Fitzpatrick in Cookson, "*Kelly Gang"*, 93 (23 September). *RC2*, x, found no breach of duty, though his visit was "unfortunate in its consequences".
[37] He arrested Ned for drunkenness on 16 September 1877, followed by a brawl en route to court the next day (see Jones, *Friendship*, 56), and in October 1877 Ned persuaded Dan and two Lloyd brothers to surrender to Fitzpatrick after an assault at Winton (*RC* Q12873; *Police Gazette* 10 October 1877, 271; *O&M*, 13 October 1877, 4).
[38] Dan consented as expected, including telling his mother to 'shut up" when she objected (Fitzpatrick, Benalla deposition, VPRS 4966 Unit 1 Item 4; cf. *RC* Q12822). Ned also said Dan consented to be arrested (*Age*, 9 August 1880, 3).
[39] Fitzpatrick, *RC* Q12819-20. Warrant for Ned, *Police Gazette* 20 March 1878, 78; Baumgarten case summarised, McQuilton, *Kelly Outbreak*, 84-5.
[40] Fitzpatrick, Benalla cross-examination: "Had no instructions to go to Kellys. Was acting perhaps as an amateur constable on the occasion", *Argus*, 22 May 1878, 10.

occurred as a whim under the influence of alcohol consumed mid-route at Winton.[41] According to Jones, this whim was a response to the prospect of police retrenchments by the Berry Ministry. Of that time ex-Supt. Sadleir wrote (against Standish), that "the shadow of Black Wednesday was still over the service, no officer felt secure in his position under the Berry regime. Indeed, Mr Berry made no secret of his view that the police service could be carried on altogether without officers whose names were never mentioned in the courts as having arrested anyone".[42] For Jones, "any constable remotely unsure of his position … would undoubtedly try to convince his superiors of his zeal and his value to the force".[43] But Berry's views (even if implemented) would not have panicked Fitzpatrick, given his established arrest record.

Jones claimed that the "unreliable" Fitzpatrick had returned a day late from Cashel, and his intended arrest of Dan on a newly published warrant was mostly a spur of the moment bid to win his way back into favour with Whelan and prove his usefulness in the job.[44] Against Jones, the evidence rather suggests that Fitzpatrick did not return late, and his *Record of Service* to that time was satisfactory. Other than his contentious Cashel dates, Jones had nothing behind his hostile claim that Fitzpatrick was "again in trouble with Sergeant Whelan", allegedly "exasperated" by his "late" return to Benalla, "full of implausible excuses".[45] Jones perversely ignored the dates on the negative comments in Fitzpatrick's service record, and two other files of material related to his discipline and dismissal, all of which apply only from March 1879 onwards, and repeatedly read them back into his first year of service.[46] In fact Whelan and others saw Fitzpatrick then as capable and responsible, and Whelan expected his officers to use initiative. While he did not directly order Fitzpatrick to arrest Dan he clearly endorsed it, and later strongly defended the attempt.[47] Fitzpatrick's call to arrest Dan was both planned and sanctioned, and it was certainly not a whim as some have suggested.

An often linked claim is that Fitzpatrick was "well under the influence of liquor" when he arrived at the Kellys.[48] The accusation was started and maintained by the Kellys, popularised by Hall and Kenneally, and has been broadly accepted and recycled ever since.[49] Against it, Whelan knew Fitzpatrick's intended movements that day, and that he

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[41] Corfield, *Encyclopedia*, 163, he decided "on his way to take up the [Greta] post"; "Sir Solomon", "Did Fitzpatrick Cause the Kelly Outbreak?", *Singleton Argus*, 17 May 1924, 3; Clune, *Kelly Hunters*, 128-9; FitzSimons, *Kelly*, 131.
[42] John Sadleir, *Recollections of a Victorian Police Officer* (Melbourne: Robertson, 1913), 183.
[43] Ian Jones, "A new view of Ned Kelly", in Colin Cave ed., *Ned Kelly: Man and Myth* (North Ryde: Cassell, 1968), 161; cf. Jones, *Short Life*, 97.
[44] Jones, *Friendship*, 57; so too FitzSimons, *Kelly*, 131.
[45] Jones, *Short Life*, 96-7.
[46] VPRS 4969 Unit 1 Item 30; VPRS 3991 Unit 1257 Item 81/5048.
[47] Fitzpatrick, *Record of Service*, "An efficient constable" (22/6/78); McIntyre testified that he "never saw anything wrong with Fitzpatrick", *Age*, 9 August 1880, 3; Whelan, *RC* Q5951.
[48] Kenneally, *Inner History*, 50.
[49] Mrs Kelly, "He was drunk," in Cookson, "*Kelly Gang"*, 8 (28 August); and Jim Kelly in Cookson, 16-17 (30 August), although Jim was in gaol at the time. Bowman for the defence of Mrs Kelly and others at

was en route to Greta police station where Mrs Strahan and her family resided, to remain there until Strahan returned.[50] It was always a highly unlikely tale that he stopped off for "a couple of hours" drinking at Lindsay's 'shanty" on the way.[51] It is based solely on a wish to believe that Fitzpatrick was a drunkard who took an otherwise inexplicably long time to get to the Kellys after leaving Benalla, and it is demonstrably wrong .[52]

Fitzpatrick was despatched by Whelan at 2pm, and arrived at the Kelly's between 4 and 5pm.[53] As the maximum possible window is three hours, FitzSimon's allegation of "a couple of hours" break at Winton is on any account unsustainable; and one can also establish a more precise timeframe for the journey. To be despatched is to be given an order; it is not a time of departure.[54] Upon despatch, Fitzpatrick would have gone to bridle and saddle his horse, ready it for riding, collect his revolver and any equipment or pack that he would take for an overnight stay, and then depart, as he testified unchallenged, about 2:30pm.[55] The minimum time a mounted constable in a hurry needs to saddle up, collect basic equipment and depart is about 15 minutes, but there was no urgency here.[56] Thirty minutes for Fitzpatrick to prepare and depart is by no means unreasonable.

The other end of the equation is his arrival at the Kellys. After his first call there, he spoke to Williamson some quarter of a mile up the range behind the house, then started

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Beechworth Assizes argued that Fitzpatrick knew nothing of what had happened as he was drunk (*O&M*, 10 October 1878, 5). While in the Beechworth gaol, Ned claimed that Fitzpatrick "got drinking at some place in the neighbourhood while he was watching for Dan to come home", *Age*, 9 August 1880, 3; Hall, *Outlaws*, 25, the Kelly party aver he was "pretty well on" at arrival and drank more alcohol there; Kenneally, *Inner History*, 48, "several drinks [at Winton]. He drank spirits"; Clune, *Kelly Hunters*, 129, "a drink or two – perhaps several"; Brian Carroll, *Ned Kelly: Bushranger*, (Dee Why West: Lansdowne, 1976), 55, "at Lindsay's Hotel … and possibly other hotels"; Keith McMenomey, *Ned Kelly: The Authentic Illustrated History* (South Yarra: Hardie Grant, 2001), 67, "stopped at Lindsay's unlicensed shanty … for a few drinks"; Alex McDermott, ed. and introduction to *Ned Kelly: The Jerilderie Letter* (London: Faber & Faber, 2001), xiv, "while drunk, attempted to arrest Dan"; Jones, *Short Life*, 96, "aglow with brandy"; FitzSimons, *Kelly*, 131, "several brandy and waters ... not drunk per se, but certainly merry".

[50] Whelan *RC* Q5945.

[51] FitzSimons, *Kelly*, 131; so too Jones, *Short Life*, 99. The "unlicensed shanty" slur is from Kelly, *Euroa Letter*, 16. Lindsay was the licensed owner of the Commercial Hotel, *RC* Q12844; Gary Dean and Dagmar Balcarek, *Ned and the Others*, rev. ed. (Glenrowan: Glen Rowen Cobb & Co, 2014), 181.

[52] E.g. Corfield, *Encyclopedia*, 163, "It took Fitzpatrick between two and three hours to reach the Kelly homestead. This tends to corroborate the Kelly's account that he was partially intoxicated"; cf. FitzSimons, *Kelly*, 130-1.

[53] Whelan, *RC* Q5944; Fitzpatrick, Benalla deposition, VPRS 4966 Unit 1 Item 4.

[54] Consistent operational meaning of "despatch" throughout Victoria Police documents and records confirmed by Victoria Police historian Dr Robert Haldane, email 14/9/2014.

[55] Fitzpatrick, Benalla deposition (cross-examination), VPRS 4966 Unit 1 Item 4. The Benalla Occurrences Book (see Robert Haldane, *The People's Force: A History of the Victoria Police*, 2nd ed. [Carlton South: Melbourne University Press, 1995], 111) should give certainty if found.

[56] At Melbourne's Mounted Police Depot Open House (27 July 2014) in reply to my questions about speedy departures on horse, an officer said she could be ready in 15 minutes if urgent – saddle up, get her gear, clipboard, etc., and depart; but would normally take an hour to warm the horse up and head off on duty.

for Greta. Williamson started for home 'shortly afterwards … about sundown", which at Eleven Mile Creek on 15 April 1878 was 5:51pm.[57] Allowing two minutes for "shortly", ten for conversing on Williamson's statement, and perhaps six or seven to end his first conversation with Mrs Kelly, get his horse, ride up, and locate Williamson, he would have headed uphill from the Kellys around 5:30pm. He had been speaking with Mrs Kelly "about an hour or more" before that, which places his first arrival at the Kellys around 4:30pm, two hours after he left Benalla.[58] Jones was led astray by believing Skillion's statement to Strahan that the last he saw of Fitzpatrick was passing his place about 5pm en route to the nearby Kellys, fabricated to distance himself from the later fracas.[59] Fitzpatrick's statement of arriving "between 4 and 5pm" is literal, consistent with other parts of the story, and has some indirect corroboration on timing via Williamson.[60] The question is whether two hours' travel time was reasonable, or whether he may have spent a significant part of it in a hotel or otherwise dawdling en route.

Fitzpatrick's intended fifteen mile journey from Benalla police station to Greta took him along the old Sydney Road to Winton, then directly past the Kelly selection at Eleven Mile Creek on the Greta-Winton Road.[61] It is almost seven miles from Benalla to Winton, another four miles from Winton to the Kellys, and a further four miles from there to Greta.[62] His journey as far as the Kellys took him eleven of those fifteen miles. In that era, police horses were "not officially permitted to go out of a walking pace except upon an emergency".[63] There was no urgency, so a comfortable, well-paced walk is likely. This is typically around five and a half miles per hour, affirmed by contemporary mounted police and a horse breeder.[64] At that rate it would take about two hours to cover the eleven miles on horseback.

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[57] Fitzpatrick, Benalla deposition, VPRS 4966 Unit 1 Item 4; Williamson, remission letter, 6 August 1881, VPRS 4969 Unit 1 Item 52; Geoscience Australia, Sunrise&Sunset results.
[58] Fitzpatrick, Benalla deposition, *Federal Standard*, 25 May 1878, 3.
[59] Jones, *Short Life*, 104; Strahan's report, VPRS 4966 Unit 1 Item 4. Hearty and Ryan equally swore Skillion was 4 miles away horse dealing with them in Winton from 5.30pm (*O&M*, 10 October 1878, 5); but Williamson saw Fitzpatrick speak to Skillion near Kelly's on his own way back home (around 6pm), VPRS 4969 Unit 1 Item 52.
[60] Williamson, ibid..
[61] The Kelly selection fronted the Greta-Winton Road. It is block 57A on the Winton district plan in McMenomy, *Illustrated History*, 72.
[62] Benalla to the Kellys "is reckoned 11 miles", Fitzpatrick deposition, VPRS 4966 Unit 1 Item 4; about 4 miles from the Kellys to Greta, Nicolson, *RC* Q1028. Distances checked on Google maps: Benalla Police Station to Winton, almost 7 miles (10.6 km) on the old Sydney Road; Winton to Greta via the Greta-Winton Road, 8 miles; 15 miles in total.
[63] Ex-Mtd. Const. Thomas McIntyre mentioned this incidentally in his memoir (McIntyre, "*A True Narrative of the Kelly Gang*" [unpublished typescript, VPM 2991, ca. 1922], 99).
[64] At Melbourne's Southbank Mounted Police Depot Open House (27/7/14) I spoke to an officer with over 30 years mounted service. He regularly used to ride on duty from the Depot to Windy Hill football ground at Essendon (11 km = 6.87 miles) at a "good, comfortable pace", which took 1¼ hours. This equates to just under 5.5mph. He said this was good exercise for the horse and not taxing; an enjoyable ride for horse and rider. The parallel is 1¼ hours from Benalla Police Station to Winton (10.6 km = 6.62 miles, at 5.3mph), plus another 4 miles at the same rate from Winton to the Kellys (45 mins) = 2hrs.

At its outset, the intended fifteen mile trip to Greta could be reasonably anticipated by both Fitzpatrick and his sergeant to take about three hours: two hours to the Kellys, plus a further hour for a stop to arrest Dan and escort him to Greta. On Fitzpatrick's statement he stopped at Lindsay's hotel in Winton for information, had some lemonade and brandy (i.e. one drink), and stopped nowhere else on the way.[65] When he arrived at the Kellys' some forty-five minutes after leaving Winton, he would likely have had a blood alcohol content around 0.01 at most.[66] Had he turned up "half drunk" it is doubtful that Mrs Kelly would have invited him in for a pleasant chat over afternoon tea and fresh scones while Kate sat darning socks, as Molony held, or for the later fracas to culminate in a friendly dinner get-together, as Kenneally was led to believe.[67]

In summary, Fitzpatrick was despatched by Whelan at 2pm for an overnight stay at Greta. He went to fetch his gear, ready his horse, and left Benalla around 2:30pm, arriving at the Kellys around 4:30pm after a comfortably paced 2 hour ride with a short stop at Winton. Clearly he did not spend "a couple of hours" drinking en route, and neither did he arrive drunk or "merry" at the Kellys. There is no reason to believe that Fitzpatrick had more than his stated lemonade and brandy at Winton on his way to make an arrest and then stay at Greta with Strahan's wife and family. Nothing lies behind the accusation of drunkenness that day but the Kellys" desperate slur against him.

A fourth claim is that Fitzpatrick, then aged 22, had taken a fancy to Kate Kelly, then three months short of 15, and had visited the Kellys at least as intent on paying court to Kate as in arresting Dan, who was not at home when Fitzpatrick made his first of two calls at the house that afternoon.[68] Jones went so far as to describe Fitzpatrick as a "possible boyfriend" and "former suitor" of Kate.[69] But the belief has no other foundations than Mrs Kelly's allegation that Fitzpatrick tried to kiss Kate during his visit,

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Another officer said she would not trot her horse (8+ mph) for more than half an hour in the interests of the horse; it could do it, but it would tax the horse unnecessarily. I went on a public tour and did not give any context before my enquiries other than that I was interested in history and horse travel in the nineteenth century. On 12/10/14 a western district horse breeder told me that an average walking pace would be somewhere around 5.5mph depending on the horse.

[65] Fitzpatrick to Bowman, Beechworth Assizes, *O&M*, 10 October 1878, 5; Benalla deposition (cross-examination), VPRS 4966 Unit 1 Item 4.

[66] Moderation Management, http://www.moderation.org/bac/bac-men.shtml, accessed 5/9/14. Fitzpatrick weighed 170 lbs at 10 August 1878 (*Record of Service*).

[67] John Molony, *I am Ned Kelly* (Ringwood: Penguin, 1982), 98, went far beyond his source (Samuel Jamieson, "Drunken Trooper Started Kelly Gang", *Dubbo Liberal*, 11 November 1933, 2) in his fanciful depiction of Mrs Kelly's hospitality; Kenneally, *Inner History*, 51, followed even more creatively by Clune, *Kelly Hunters*, 134.

[68] Fitzpatrick born 18 February 1856; Kate (Catherine) born 12 July 1863 (the dates, Corfield, *Encyclopedia*). Hall, *Outlaws*, 26 (sceptically), no intention of arresting Dan, but went 'simply to make a call"; Molony, *Ned Kelly*, 97, Kate was central to his mind's "basic workings"; Jones, *Short Life*, 92 "infatuation"; 96, "always eager to see Kate".

[69] Jones, "New view", 161; *Friendship*, 56; *Short Life*, photo caption following p. 78; cf. Morrissey, *Lawless life*, 43, "girlfriend"; 46ff.

and in Ashmead's fantasy of a moonlight romance.[70] Fitzpatrick saw himself at that time as friendly with the Kellys.[71] If he did try to kiss Kate there is no need to read more into it than a friendly gesture that affronted her police-hating mother.[72] Ashmead's moralising typescript is unreliable throughout.[73] Indeed, his purple prose on the claimed romance, which Jones quoted extensively as something Ashmead "witnessed or was told", is so implausible that Jones himself acknowledged that their alleged lover's conversation was simply imagined.[74] Fitzpatrick later said of his arrival at the Kellys, "They all showed me bitter dislike from the time that I rode up. Their whole attitude to the police force was one of intense hostility".[75] The idea that Fitzpatrick was ever a suitor of 14 year old Kate is idle fancy, particularly given that Fitzpatrick was then engaged, if problematically.[76]

There are two principal versions of the fracas that followed the attempted arrest of Dan, and both have been creatively embroidered.[77] The first is that given by Fitzpatrick on his return to Benalla after the incident and subsequently. In this version Fitzpatrick was shot in the wrist by Ned, struck on the helmet with a fire shovel by Mrs Kelly, and fainted before being bandaged and released later that night. The second account is that predominantly given by the Kellys and is notable for the absence of Ned. In this version, Fitzpatrick drew his gun during the attempted arrest. Dan wrestled him and seized it, and Fitzpatrick sustained his wrist injury on a door latch. A frequent enhancement is that Mrs Kelly and Dan were defending Kate from an assault by Fitzpatrick. Given these very different accounts it is necessary to establish whether or not Ned was there.

WAS NED PRESENT?

Ned and his circle made a number of conflicting statements as to his presence during the fracas. At the Beechworth Assizes, Ned's cousin Joseph Ryan swore he had bought a

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[70] Mrs Kelly in Cookson, "*Kelly Gang"*, 7 (28 August); Joseph W. Ashmead, "*The Thorns and The Briars: A True Story of the Kelly Gang*" (unpublished typescript, SLV MSPA PA, Box 55, [1922]), ch. 8.
[71] Fitzpatrick, *RC* Q12871; Kelly, *Jerilderie Letter*, 34, "he said we were good friends and even swore it".
[72] "He tried to kiss my daughter", Mrs Kelly in Cookson, "*Kelly Gang"*, 8 (28 August); her first husband was an ex-convict; 3 sons had already served prison terms (*RC* Appendix 10); she had escaped convictions on past charges of keeping unlicensed premises and furious riding, and her daughter Annie had died two days after giving birth to an illegitimate child apparently fathered by a policeman (MacFarlane, *Unmasking*, 41-2).
[73] Most obviously, Ashmead, "*Thorns*", places McIntyre inside the police tent at the start of the Stringybark Creek attack, and has the tent still at the site the next day when it had been well reported burned (ch.10); he has £8000 not £2000 taken from Euroa (ch.11); and he makes Joe Byrne and Aaron Sherritt cousins (ch.15).
[74] Jones, *Short Life*, 91-2. Ashmead's preface acknowledges that his story is "clothed in fiction".
[75] Fitzpatrick in Cookson, "*Kelly Gang"*, 94 (23 September).
[76] Jones, *Short Life*, 97; Fitzpatrick married (under pressure from Standish) in July 1878, and raised three children (Corfield, *Encyclopedia*, 165-6).
[77] See e.g. Hall, *Outlaws*, 23-7; Charles White, *History of Australian Bushranging. Vol. 2: 1863-1880, Ben Hall to the Kelly Gang* (Sydney: Angus and Robertson, 1903), 263-4.

horse from Ned for £17 cash on the 15th. He produced a receipt which he said was written that same evening, thereby placing Ned in the area.[78] On 26 October at Stringybark Creek, Ned admitted he had shot Fitzpatrick to McIntyre, saying "I almost swore after letting him go that I would never let another one go".[79] He then turned to denial, except directly after capture.

Ned told some of his Euroa captives that "he could prove he was 15 miles away at the time Fitzpatrick was shot in the wrist".[80] From this point the distance claimed grew rapidly. Still at Euroa, Ned told captive James Gloucester that "he was 200 miles away at the time of the alleged shooting at Greta".[81] In the Euroa letter (December 1878), Ned said Fitzpatrick was inside with Dan and their mother when a fracas developed over the lack of a written warrant. Ned directly denied being in Victoria at that time.[82] A page later he claimed he was 400 miles away at the time of "this transaction", which appears to refer to the remand of his mother and others pending trial. In the Jerilderie letter (February 1879), the Euroa letter's simple denial has been replaced by a wordier claim that he had left the colony as a "rambling gambler" over the relevant period.[83] Ned also said, identically to the Euroa letter, that he "heard nothing of this transaction until very close on the trial I being then over 400 miles from Greta".[84]

Still at Jerilderie, Ned told Const. Devine he was "200 miles away at the time that Fitzpatrick was shot".[85] Ned then told his captives at the Jerilderie Royal Mail Hotel that he "was 400 miles away from home" when he heard of the incident, that he was "entirely innocent" of shooting Fitzpatrick, and that he was married.[86] He again claimed in a statement published while in the Beechworth gaol awaiting trial, "I was not within hundreds of miles of that place at the time, and I never at any date shot at Fitzpatrick".[87]

After Ned's capture at Glenrowan (and receiving the Last Rites) Sgt. Steele said Ned "was asked if it was true about his shooting Fitzpatrick. He said 'Yes it is true; I shot him.'"[88] Snr. Const. Kelly similarly testified that in the Benalla lock-up about 3am the morning after Ned's capture, in Const. Ryan's presence, he asked if Fitzpatrick's

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[78] Ryan deposition, *O&M*, 10 October 1878, 5.
[79] McIntyre deposition, 7 August 1880, VPRS 4966 Unit 1 Item 1.
[80] *Argus*, 12 December 1878, 5.
[81] *Argus*, 29 October 1880, 6.
[82] Kelly, *Euroa Letter*, 5-6.
[83] Kelly, *Jerilderie Letter*, 20.
[84] Kelly, *Jerilderie Letter*, 26. Jones (*Friendship*, 59) argued that this sentence is "ambiguous but consistent with him being present, though leaving before the arrests were made". Such a reading is unsupported given Ned's separate unambiguous denials of his presence in the colony in both letters.
[85] *Argus*, 30 October 1880, 8.
[86] *Herald*, 14 February 1879, 3. No corroborative support for his marrying has ever surfaced.
[87] *Age*, 9 August 1880, 3. In a shorter prior version, Gaunson relayed Ned's claim "that he was not near the place when the affray took place", *Age*, 7 August 1880, 6.
[88] Gibney, *RC* Q12346; Steele deposition, *Argus*, 30 October 1880, 8.

statement was correct, and Ned said "Yes, it was I that fired at him".[89] Ned lived to be tried for murdering Lonigan at Stringybark Creek, and in his Governor letter of 3 November 1880 he again claimed unconvincingly, "From February to October [1878] I can prove I never was … in the locality" when Fitzpatrick was shot.[90] In sum, there are at least three occasions on which Ned freely admitted his presence and action.[91] Once to Const. McIntyre, once as relayed to Sgt. Steele, and once to Constables Kelly and Ryan.

The night after the incident Mrs Kelly denied to Strahan that Fitzpatrick had been at her house the previous night, or Ned "for the last four months", but then admitted her assault on Fitzpatrick to Steele during her arrest.[92] Many years later she admitted that Ned had been present, but claimed Fitzpatrick's own revolver had gone off accidentally such that he shot himself in the wrist; an unlikely claim given the damage a .442 Webley bullet would do close up.[93] Mrs Kelly's eventual admission is not surprising. Ned is present in Kenneally's version of the fracas, and in the fourth edition of his 1929 *Inner History* Kenneally revealed his informant as Tom Lloyd, often called the "fifth member" of the Kelly gang.[94]

Kate Kelly is recorded on the same statement to Strahan as her mother, identically holding that neither Fitzpatrick nor Ned were there the previous night. If ever there was a time to complain about Fitzpatrick's conduct causing an affray, or to display outrage and distress at an assault, that was it; but the story had not yet been invented. Offered the opportunity by the prosecution to take the stand at her mother's trial in October ("to bear out the defence that Ned was not there"), it was not taken.[95] But in February 1879 Kate began telling anyone who would listen that Fitzpatrick was violently assaulting her when Ned came to the door, rushed for his revolver and shot Fitzpatrick in the wrist.[96] In Kate's version her (now gaoled) mother does not appear at all. It is the only version that has her in the house alone when Fitzpatrick arrived, yet it is set just before the shooting when, in other Kelly versions including her mother's, Fitzpatrick entered the house with Dan, and was with him and Mrs Kelly when the fracas erupted minutes later. Ned joined in briefly in February, telling some Jerilderie captives that Kate "had a revolver put to her head,

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[89] John Kelly deposition, VPRS 4966 Unit 1 Item 6. These were separate disclosures a day apart.
[90] Kelly, dictated to Buck, 3 November 1880, VPRS 4966 Unit 2, Item 10.
[91] There is also a hearsay report "by a person worthy of belief that [Kelly] voluntarily stated in this person's hearing soon after the alleged shooting of Fitzpatrick that every word stated by him was correct except that Skillian and Williamson did not pursue Fitzpatrick but that they mounted their horses to do so", Memo, 3 November 1880, VPRS 4969 Unit 1 Item 29.
[92] Strahan, report, 27 September 1878, VPRS 4966 Unit 1 Item 4; Steele, *RC* Q9214-5.
[93] Mrs Kelly in Cookson, "*Kelly Gang"*, 8, 10 (28 August), "the boys" being Ned and Dan. From 1873 the mounted police were progressively issued .442 Webley revolvers (Bill Denheld, "The Bullets of Kelly's Creek", www.denheldid.com/twohuts/bullets.html, accessed 26/8/14; cf. Steele, *RC* Q9085; "Webley RIC presentation revolver", http://collectish.com/Items/653, accessed 5/10/2014); damage, Jones, *Short Life*, 105.
[94] Kenneally, *Inner History*, 50 (presence); 9-10 (informant). Fifth member, Jones, *Short Life*, ix.
[95] Whelan, undated note, VPRS 4965 Unit 4 Item 316.
[96] *Herald*, 7 February 1879, 3; *Burra Record*, 21 February 1879, 3.

demanding her to submit her virtue or be shot by Fitzpatrick".[97] But Ned strongly denied any such assault elsewhere; and in February's Jerilderie letter the fracas was again blamed on the lack of a written warrant.[98]

For influential Kelly historian and scriptwriter Ian Jones, the Kelly outbreak was the direct end-result of Ned's impulsive pistol-wielding rush into the house to defend Kate from an assault by Fitzpatrick, who had attempted to pull her onto his knee or otherwise molest her.[99] The tale of Fitzpatrick's alleged outrageous conduct gained wide acceptance in north eastern Victoria.[100] It was printed in several newspapers of the day and in Hall's February 1879 Mansfield pamphlet, featured as a key scene in Tait's 1906 film *The Story of the Kelly Gang*, and was promulgated widely by Kenneally's *Inner History*.[101] From this point, it entered mainstream cultural mythology. Molony's *I am Ned Kelly* grew the tale to savagely abuse Fitzpatrick. While he did not detail an assault on Kate in his description of the Fitzpatrick incident, he cited the 1933 recollections of Samuel Jamieson, an old local who (despite glaring errors in his story) claimed to have known the Kellys well. Jamieson claimed that the "half drunk" Fitzpatrick "sat down beside Kate on the couch" and attempted "to make free with Kate" while Mrs Kelly was making tea in the same room, upon which Mrs Kelly "ran from the stove and felled him with the fire shovel".[102] To Molony, Jamieson's story "repeats the universal family tradition that Fitzpatrick forcibly attempted to make love to Kate"; from this base he subsequently decried what he described as Fitzpatrick's "old habit of molesting young women".[103] In his 2011 National Portrait Gallery lecture, he went even further, alleging the literal rape of Kate.[104]

Yet the worst Mrs Kelly had to say of it some 30 years later, despite great bitterness about her life ruined in the aftermath of that incident, was that Fitzpatrick had tried to kiss

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[97] *Herald*, 14 February 1879, 3.
[98] Kelly, *Jerilderie Letter*, 22-3; Ned quoted, *Age*, 9 August 1880, 3.
[99] Jones, *Short Life*, 106, cf. 101-3. Jones co-wrote the screenplay for the 1970 film *Ned Kelly*, depicting a violent assault by a slobbering, hairy Fitzpatrick; he also co-scripted and produced *The Last Outlaw* mini-series (1980), depicting an aggressive seizure of Kate whilst in the kitchen with her family; cf. Dean and Balcarek, *Ned and the Others*, 173-4.
[100] Brown, *Australian Son*, 42.
[101] Hare, *Bushrangers*, 155 (newspapers); Hall, *Outlaws*, 26; Kenneally, *Inner History*, 50. Douglas Stewart, *Ned Kelly* (1943) Act 1 Sc.2 has Ned say, "If the trap Fitzpatrick had kept his dirty hands off the Kelly girls, none of this would have happened", and "Fitzpatrick wanted Kate, that started it all". Cf. Sidney Nolan's *Kate Kelly* paintings (1945, 1946), and the collection of Kelly songs etc. in Meredith and Scott, *Acrimony*.
[102] Molony, *Ned Kelly*, 98, (Fitzpatrick's "breach of hospitality"); 271 n.6; Samuel Jamieson articles, *Dubbo Liberal*, 23 September to 30 November 1933, "Drunken Trooper Started Kelly Gang", 11 November, 2.
[103] Molony, *ibid.*, 204.
[104] National Portrait Gallery, 2011, *Convicts to Colonies*, "Ned Kelly, our heroic outlaw with John Molony", 6:14-32ff. Molony there postulated a cover-up, ignoring Kate's own public allegations of February 1879.

her daughter.[105] The story was dismissed out of hand by staunch Kelly defender Max Brown, who said that "the myth does not fit the evidence".[106] Clearly nothing adverse occurred during the hour or so of Fitzpatrick's first call. Any alleged assault must be located upon his return some half an hour later, while he was in the kitchen with Dan and Mrs Kelly. Both Mrs Kelly and Kate eventually admitted Ned's presence, and the last word on Kate should go to Ned after his capture, in line with Fitzpatrick's explicit denial: "If he or any other policeman tried to take liberties with my sister, Victoria would not hold him".[107]

In 1911 Jim Kelly claimed that he himself (although then gaoled) had been present at the fracas. He recycled the Kelly tale of Fitzpatrick shooting himself in a drunken struggle to arrest Dan, though without molesting Kate, whom he has sitting in a chair at the time.[108] In that account Ned did not appear; but Jim had given a different version in 1909 which had a drunken Fitzpatrick tearing "half the clothes" from Kate, before Ned came and shot him from the doorway as Mrs Kelly knocked him down with her shovel. This version closely parallels Fitzpatrick's testimony. It too had the gaoled Jim present as "only a kid" (he was 20 in 1878), and ended with Fitzpatrick shot dead.[109] Jim later endorsed Kenneally's 1929 *Inner History* which has Ned present (and unique to Kenneally's version, Fitzpatrick firing a shot), as a true and reliable account of events, as did James Ryan, another Kelly cousin.[110] Jim also told a relative that Ned had shot Fitzpatrick, when he had no reason to lie about Ned's presence.[111]

Standish testified that in a prison interview 'some months after" the incident, probably 30 October, Williamson corroborated Fitzpatrick's statement, necessarily including that he was shot by Ned.[112] Other statements by Williamson admit that despite his denials upon arrest, he was present at the incident and its immediate aftermath.[113] But it was not until his 1881 remission application that he stated he was outside the house when Ned rushed to the door and fired 2 shots at Fitzpatrick, reconfirming much of Fitzpatrick's description of events in the process.[114] Ned's uncle, Patrick Quinn, also said he believed Fitzpatrick was shot by Ned, "from what I heard and can make out".[115]

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[105] Mrs Kelly in Cookson, "*Kelly Gang"*, 8 (28 August).
[106] Brown, *Australian Son*, 42.
[107] Ned quoted, *Age*, 9 August 1880, 3; Fitzpatrick in Cookson, "*Kelly Gang"*, 94 (23 September). At Benalla Fitzpatrick testified, "Know Miss Kelly; never attempted to take any liberties with her", *Federal Standard*, 25 May 1878, 3.
[108] Jim Kelly in Cookson, "*Kelly Gang"*, 16-7 (30 August). Jim gaoled in NSW for 3 years from 27 June 1877 (*RC* Appendix 10); discharged 18 January 1880, telegram, VPRS 4965 Unit 2 Item 141.
[109] Datas, *The Memory Man, by Himself* (London: Wright and Brown [1932]), 170-2.
[110] Kenneally, *Inner History*, 102, 312, 314.
[111] Jones, *Short Life*, 102, 382, citing his own interview with a descendant.
[112] Standish, *RC* Q3; telegram, 30 October 1878, VPRS 4965 Unit 3 Item 85.
[113] Williamson to Green, 29 October 1878 (VPRS 4965 Unit 5 Item 353); cf. Williamson in Kenneally, *Inner History*, 54. Denial on arrest, Steele statement, 17 May 1878, VPRS 4966 Unit 1 Item 4.
[114] Williamson, 6 August 1881, VPRS 4969 Unit 1 Item 52.
[115] Quinn, *RC* Q17967; uncle, Q17713.

The sum of evidence from all angles is compelling: Ned's presence is amply attested. He rushed up to the house, possibly to prevent the arrest of Dan without then knowing of Dan's consent, and probably also, as Jones argued, because he thought the intruder was Const. Flood,[116] and fired a revolver at Fitzpatrick. Until Ned burst onto the scene, Dan was willing to go with Fitzpatrick, and would likely have escaped conviction in court as his identically-charged cousin John Lloyd did just three weeks later.[117] The alleged assault on Kate was fabricated in a series of inconsistent, often self-contradictory attempts by the Kellys to claim provocation and generate sympathy; and it was remarkably successful in doing so.[118] The only consistency in all Kelly versions, excepting Kate's, is violent resistance to the attempted arrest of Dan, initiated by Mrs Kelly.[119] Having established Ned's presence, it is possible to more rigorously review the events of 15 April.

WHAT HAPPENED DURING THE FRACAS?

While Jones claimed that Fitzpatrick's account "has been widely discredited throughout the years" and was "far from the truth",[120] it has never been reconstructed from its different sources and presented in full such that it may be properly reviewed, corroborated, and indeed vindicated. In this the starting point is Fitzpatrick's deposition in the Benalla Police Court on 17 May 1878, which led to the subsequent trial at the Beechworth Assizes in October. The official record of Fitzpatrick's deposition was written down by a law clerk as it was delivered in court. Another record by a journalist was printed in the *Federal Standard*.[121] The two records of this same testimony each contain important details missed by the other; both because law clerks did not use shorthand in this period and so could not record every spoken word, and because newspapers typically edited text down to save space.[122]

The narrative below follows the structure of the official record, incorporating Fitzpatrick's cross-examination responses, along with additional testimony from the

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[116] Jones, *Short Life*, 105; 383. This is consistent with Ned asking Skillion after the fracas, "Why didn't you tell me it was Fitzpatrick?", and telling Fitzpatrick that if he had known it was him, he would not have fired; a position supported editorially by *O&M*, 10 October 1878, 4: "The arrest [of Dan] would have involved serious consequences to himself and others, and imagining the Constable was a man against whom he had a special hatred, he rushed in and fired, with a deliberate desire to commit murder".
[117] *RC2* 1881, x; cf. McMenomy, *Illustrated History*, 79.
[118] Cf. "Insult to Kate - An old theory denied", *Mirror* (Perth), 20 January 1923, 2.
[119] Mrs Kelly to Steele, "you would not like to a see a son of yours taken", *RC* Q9214; cf. Hall, *Outlaws*, 26.
[120] Jones, *Short Life*, 99, 100.
[121] Fitzpatrick, Benalla deposition, VPRS 4966 Unit 1 Item 4; *Federal Standard*, 25 May 1878, 3.
[122] Shorthand, see McIntyre, "*True Narrative*", 103. An almost identical report to the *Federal Standard*'s was printed in the *Argus* (22 May, 10), but the *Argus* cut it down from what is obviously the same original text.

Federal Standard's record, shown in italics, such that both are read together. To this combined record of the Benalla deposition have been added further details from Fitzpatrick's depositions both at the Beechworth Assizes in October 1878 and the 1881 Royal Commission, and other evidence. All such supplementations to the combined Benalla record are referenced as they occur. Although Fitzpatrick's original statement to Whelan upon his return to Benalla is lost, Whelan attested that his depositions both at Benalla and Beechworth "did not prevaricate in the least from the statement he first made".[123] The resulting amalgamated statement provides for the first time a comprehensive narration of Fitzpatrick's version of events, which was highly consistent over time and survived rigorous cross-examination. Additional notes, particularly from Williamson's 1881 remission letter, are given in square brackets.[124]

Fitzpatrick deposed that on 15 April he was on duty in uniform when he left Benalla for Greta about 2:30pm, *having been instructed to relieve* Sgt. Strahan *there*. He stopped at Lindsay's public house at Winton, for information, and had some lemonade and brandy.[125] He did not stop anywhere else before reaching the Kellys between 4 and 5pm. He dismounted and went in to see if Dan was about. Mrs Kelly and three children *were in the house*.[126] He stayed about an hour *or more* talking with Mrs Kelly, to see if there was a chance of Dan coming in.[127] Hearing the sound of chopping up the hill behind the hut, he said he would go up and see who it was. He rode about half a mile up towards the range where he found Williamson, a man who used to live with the Kellys, splitting rails.[128] Fitzpatrick spoke with him, and asked him if he had a splitting licence, to which Williamson said that he did not need one as he was on selected land. [On Williamson's statement, the conversation lasted about ten minutes and ended shortly before sundown.[129]]

Fitzpatrick had started again for Greta when he saw two horsemen *riding towards Kelly's house, and* enter the slip panels in front of the old hut.[130] He followed them down there and rode around the paddock to see who they were.[131] By the time he got there, however, one of them had disappeared. He went down and spoke to Skillion, who was

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[123] Whelan, *RC* Q5947.
[124] Williamson, remission letter, 6 August 1881, VPRS 4969 Unit 1 Item 52.
[125] Fitzpatrick, Beechworth Assizes, *O&M*, 10 October 1878, 5. Ned Kelly (*Euroa Letter*, 16-7) hated Lindsay as a police informant.
[126] For Kate included in the children, see Fitzpatrick in Cookson, "*Kelly Gang"*, 93 (23 September). The baby is nowhere mentioned and may have been in a bedroom.
[127] Fitzpatrick, *RC* Q12821.
[128] Fitzpatrick, *RC* Q12822; Fitzpatrick, *O&M*, 10 Oct 1878, 3. Williamson, who lived there, gave the distance as "about a quarter of a mile" (remission letter), so somewhat over a quarter of a mile seems likely.
[129] Williamson, ibid.
[130] Started for Greta, Williamson, ibid. This paragraph is heavily supplemented from Fitzpatrick, *RC* Q12822.
[131] Fitzpatrick reckoned the time between leaving the Kellys and returning as "about a quarter of an hour" (Benalla cross-examination). On this analysis it would be about 20 minutes from his leaving Mrs Kelly's new hut and returning to the old hut on her property in search of the two horsemen he followed there.

leading one horse by the bridle and another by the mane, just inside the slip-panels.[132] [Against Jones' theory that Fitzpatrick here mistook Joe Byrne for Skillion, he did not know Byrne, and Williamson corroborated that Fitzpatrick spoke with Skillion then at the Kelly's fence.[133]] There was a third horse in the panel, recently ridden, with a saddle on but the bridle taken off. He asked Skillion who had been riding it, and Skillion said he did not know. Fitzpatrick examined the horse, saw it was the *mare* he had seen Dan riding two or three days previously [at Cashel], and asked where Dan was. Skillion said *he supposed* Dan was up at the [new] house.

Fitzpatrick rode back to Mrs Kelly's and called to Dan, who came out in his shirt sleeves with a knife and fork in his hand.[134] [Williamson stated that Skillion started for home about the time Fitzpatrick called to Dan.[135]] He *spoke to Dan about some stray horses, and* said he would have to arrest him as there was a warrant *out for him* on a charge of horse stealing. Dan did not refuse to be arrested. He said, "Very well, but let me get something to eat, as I have been out riding all day". Fitzpatrick *consented to this, and* followed Dan inside. It was just getting dusk. [Dusk was 6:17pm.[136]] He drank no alcohol at the Kelly's, and was perfectly sober at the time of the fracas.[137] Mrs Kelly and Kate [and from the foregoing, two other girls] were in the room *while Dan was getting his supper*.[138] Mrs Kelly whispered something to the girls, who [excepting Kate] ran out to the back hut, to alert Ned as Fitzpatrick later realised.[139] She then accosted him, calling him a "deceitful little bugger; she always thought he was", and said, "You won't take him out of this [house] tonight". He said it was no use talking that way, he had to do his duty.[140] Dan said, "Shut up, mother, that's all right".

[To this point both sides agree that Dan was still willing to accompany Fitzpatrick to Greta under arrest.[141] There is now a major divergence between Fitzpatrick's and the principal Kelly version of the incident: they allege that Fitzpatrick then drew his gun and

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[132] Fitzpatrick, *O&M*, 10 October 1878, 5.
[133] Jones, *Short Life*, 105; Fitzpatrick, *RC* Q12950; Williamson (ibid.) said that shortly after speaking to Fitzpatrick on the hill, he started for home about sundown (5:51pm). An average walk is 3mph or 20 minutes per mile (Yahoo Answers). A walk somewhat over a quarter of a mile would take him around 6 or 7 minutes, likely passing Kelly's fence shortly before 6:00pm.
[134] Fitzpatrick, *O&M*, 10 October 1878, 5.
[135] Williamson, remission letter, which also places Skillion outside Mrs Kelly's just after the fracas.
[136] Geoscience Australia, Sunrise&Sunset results (Eleven Mile Creek, 15/04/1878). After dusk, "artificial illumination is normally required to carry on ordinary outdoor activities", sunrisesunset.com/definitions.
[137] Benalla cross-examination, VPRS 4966 Unit 1 Item 4; *contra* the Kellys" tale in Hall, *Outlaws*, 25.
[138] Fitzpatrick, *O&M*, 10 October 1878, 5.
[139] Fitzpatrick, in Cookson, "*Kelly Gang"*, 93 (23 September). Unsurprisingly Ned later bragged that he would "never attempt to fire into a house … full of women and children" (Kelly, *Jerilderie Letter*, 35); Fitzpatrick never said he did. This also matches Williamson's remission statement that he quieted two of Mrs Kelly's children outside the house; that would be just before he entered the house during the fracas.
[140] Fitzpatrick, *RC* Q12822; cf. Fitzpatrick, in Cookson, "*Kelly Gang"*, 93 (23 September).
[141] Kelly, *Jerilderie Letter*, 22; Ned quoted, *Age*, 9 August 1880, 3.

told Mrs Kelly not to interfere or he would shoot her.[142] Why he would do this when Dan was still willing to go to Greta is never explained; certainly Fitzpatrick did not feel that any crisis or resistance had arisen up to this point.[143] According to the Kellys, Mrs Kelly then said he would not have drawn his revolver if Ned were there. Dan then said falsely, "Look, there's Ned". As Fitzpatrick looked around, Dan leapt up, seized the gun, put Fitzpatrick in a wrestling hold, and threw him out of the house, with Fitzpatrick injuring his wrist on a door latch on the way, and Ned not present at all.[144] While certainly an exciting tale, it is also hollow. Fitzpatrick had obliged Dan, perhaps foolishly, by letting him finish his dinner, but Dan's consent recognised that resisting or evading arrest could only add to his charge sheet.[145]]

Fitzpatrick then saw Skillion passing the house in the dusk [about 6:17pm], leading a horse. It was about 15 minutes since Fitzpatrick had seen Williamson chopping wood.[146] Fitzpatrick had been in the house barely 3 minutes when Ned came to the doorway and *without a word* fired at him with a revolver, but did not hit him.[147] Fitzpatrick was standing with his back to the partition, *about a yard and a half inside* [from it], *rather behind the door, with his back towards it*. Mrs Kelly was standing with her back to the fire. Dan was sitting at the table. Fitzpatrick was standing up alongside him, with his right side to Dan.[148] His left side was to Ned, who was about two yards off him.[149]

[There is only one arrangement that meets all these criteria: Fitzpatrick stood about halfway between the front door and the rear passageway entrance directly opposite; 2 yards from either doorway in a 12 foot wide room, facing the fireplace centred in the far wall, and about 1½ yards in from the main bedroom partition, in line with the bedroom door behind him, as Ned fired from the front doorway, which was just over 2 feet wide.[150]]

Immediately after the shot Ned said "Out of this you bugger",[151] as Mrs Kelly rushed at him and struck him *a heavy blow* with [the flat of] her fire shovel on the left side of his helmet, which he had not taken off, *making a large dent in it, and* smashing it down on

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[142] Kelly, *Euroa Letter*, 6-7 (cf. *Jerilderie Letter*, 22-3); *Age*, 9 August 1880, 3.
[143] Fitzpatrick, *RC* Q12822.
[144] Kelly, *Euroa Letter*, 6; Ned quoted, *Age*, 9 August 1880, 3.
[145] Hall, *Outlaws*, 23; Standish, *RC* Q2.
[146] Fitzpatrick, *RC* Q12866. Possibly about 25 minutes. It would be about 10 minutes since Fitzpatrick first spoke to Dan outside the new hut with Williamson nearby (remission statement), and another 15 since he earlier left Williamson on the hill and came there via the old hut.
[147] Fitzpatrick, *RC* Q12822. Some short time; in Cookson, "*Kelly Gang"*, 93 (September 23), he said he "had not been inside more than 10 minutes" when Mrs Kelly sent the girls with a message to Ned.
[148] Fitzpatrick, *RC* Q12823.
[149] Fitzpatrick, *O&M*, 10 October 1878, 5.
[150] There is a faithful replica of Mrs Kelly's new hut behind the "Kate's Cottage" shop and museum in Glenrowan. (All doorways are similarly narrow.) The kitchen/living room is 15' by 12'; see McMenomy, *Illustrated History*, 75 for an exterior illustration. In *RC* Q12824 over 3 years later, Fitzpatrick said he was about 1½ yards from Ned when shot; but the 1878 depositions produce the above coherent scenario.
[151] *O&M*, 10 October 1878, 5; Fitzpatrick to Crown Solicitor, 20 September 1878, VPRS 4966 Unit 1 Item 4.

his head.[152] [She later admitted this, but was not believed.[153]] He had raised his arm to ward off the shovel when Ned fired again.[154] This second ball lodged in his left wrist. Fitzpatrick knocked the shovel down with his right hand, and then turned to draw his revolver, but Dan had snatched it from his belt while his attention was drawn to Mrs Kelly and Ned, and was now holding it pointed at Fitzpatrick. Skillion came to Ned's side at the door just as the second shot was fired, trying to force his way in beside Ned; he had a revolver in his hand, but he did not use it.[155]

[Williamson's remission letter stated that the man he called King went to the house at that point "with a revolver in his hand". He would not have been able to enter the room past Ned due to the narrow 2'2½" (673mm) doorway. By then Fitzpatrick would have been looking towards the doorway into the night, and hardly in a calm state. On both Ned's comment to McIntyre and Williamson's statements, a misidentification of this man occurred and it was Joe Byrne.[156] This explains Ned's subsequent protestations of Skillion's innocence; but the narrative here presents Fitzpatrick's belief and deposition. While much would be said about Fitzpatrick's "perjury", Ned could have named Byrne after his death to try to exonerate Skillion, who was still doing hard labour; yet Ned did not do so. Years later, Lloyd, as Kenneally's informant, said nothing to settle it.]

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[152] Fitzpatrick, *RC* Q12825. The dented helmet was produced in court: "It was not the edge of the shovel [that] struck me"; "it was like a contractors shovel worn down"; Benalla deposition, VPRS 4966 Unit 1 Item 4.

[153] In her Beechworth trial, "that she knocked Fitzpatrick down with a shovel", *Argus,* 10 August 1880, 7; see Morrissey, *Lawless life*, 61.

[154] Fitzpatrick, *O&M,* 10 October 1878, 5.

[155] Reconstructed in order from *RC* Q12828, Q12865, *Federal Standard* (Benalla), *O&M* (Assizes), Q12827-8.

[156] In the Jerilderie letter, Ned said that Skillion was not there "at the time of the row" (Kelly, *Jerilderie Letter*, 24), and he told McIntyre that the men with him at Stringybark Creek were the ones that were there (McIntyre prosecution brief, VPRS 4966 Unit 1 Item 6). As Hart was then gaoled, this identified Byrne. Williamson said the police "discovered [in 1881] Byrne was at Kellys hut at the time", and later wrote (in Kenneally, *Inner History*, 54) that Byrne, whom he stopped from "going into Fitzpatrick's presence after the brawl", was mistaken for Skillion (whom he "closely resembled", McQuilton, *Kelly Outbreak,* 86); see Prison Register descriptions, VPRS 515 Vol. 24, 99; Vol. 28, 272.

Williamson came to the door of the bedroom as the second shot was fired.[157] He was also armed with a revolver or pistol, and from his position he could see Mrs Kelly.[158] Neither of these men were in the house when Fitzpatrick first came in.[159] Ned remained in the same position [in the doorway], with his revolver pointed at Fitzpatrick. Fitzpatrick slewed around, took hold of the muzzle of Ned's pistol, and turned it away from himself. In the struggle, the pistol went off a third time, *the bullet passing through the sleeve of Fitzpatrick's jumper*.[160] They all had their revolvers levelled at him. Fitzpatrick said to Ned, "You cowardly wretch, do you want to murder me?", and Ned said, "That'll do boys". Ned said to Skillion, "You bugger, why didn't you tell me who was here?" Williamson muttered something which he could not hear. Skillion did not say anything. *Turning to Fitzpatrick*, Ned said "If I had known it was you I would not have fired, but none of the other buggers would have left here alive". Miss Kelly was in the house while the firing was going on; she sat down and cried.

The wound in Fitzpatrick's arm was bleeding *all the time,* and he fainted. *As he was coming around he heard the men talking,* whilst lying on the floor.[161] Ned said to Skillion,[162] "Bill would have given that bugger who went by a pill [bullet] the other day" if not for him. Skillion said, "What, the Benalla cove?" Ned said "No, Sgt. Steele, and I've got a pill for him yet". [The *Federal Standard* here interpreted "Bill" as "(meaning Skillion)", but it more likely meant Billy King, the name Byrne had assumed, who had just been briefly present.[163]]

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[157] Fitzpatrick, *RC* Q12826. Official Benalla record, "came in from the bedroom"; *Fed. Std.* report, "came out of the bedroom"; Beechworth deposition, "came in armed with a revolver". The Benalla depositions locate Williamson in the bedroom just prior to the fracas; the Beechworth and Commission depositions have Williamson "come in" as far as the bedroom door. This is viable if Williamson came in the back, up the passage, and was first noticed near the main bedroom door during the fracas. Williamson (remission letter) said that Fitzpatrick "had his back to that part of the hut where the bedroom was and was excited in struggling with Kelly at the door of the hut". Fitzpatrick said he didn't know how Williamson got into the house before him. When asked were there two doors, he incorrectly answered that there was only the entrance door (*RC* Q12868-9). He may have disregarded the passage doorway to the two rear bedrooms and back door. It had no door fitted, and was possibly curtained with blanketing or calico like the old hut (*RC* Q1024) and Sherritt's (Jones, *Short Life*, 207). Williamson's remission letter claimed he was outside the house, not "coming out of the bedroom" as Fitzpatrick said; but he could only have seen Dan holding Fitzpatrick's "right arm and Mrs Kelly ... holding a spade against [his] chest" from within the house.

[158] Williamson had seen 'some revolvers and ammunition" that Skillion had purchased in Melbourne the previous year (Statement to Green, 29 October 1878, VPRS 4965 Unit 5 Item 353), and Fitzpatrick had previously seen a revolver at the house (Benalla cross-examination).

[159] Fitzpatrick, *RC* Q12826.

[160] Fitzpatrick subsequently claimed the cost of a replacement uniform jumper due to his having a bullet hole in the sleeve and having to be kept for evidence (VPRS 4969 Unit 1 Item 30, 24 May 1878). Sgt. Steele similarly grappled with Ned's revolver during his apprehension at Glenrowan (*Argus,* 29 June 1880, 6).

[161] Fitzpatrick, *O&M,* 10 October 1878, 5.

[162] Fitzpatrick named Skillion here in both his Benalla and Beechworth depositions; the *Federal Standard* mixed the names in its report of the Benalla testimony and had Ned speaking to Williamson.

[163] Ned spoke to Bill Skillion; Williamson was "Bricky". Williamson stated to Green that the man called Billy King was then staying at the Kellys; a man "that would fire on anyone that would attempt to arrest him" (29 October 1878, VPRS 4965 Unit 5 Item 353). Skillion thus entered the house after Fitzpatrick

He was then in the act of getting up, and Skillion and Williamson went outside.[164] [It would be then that Williamson "pulled Burns (Byrne) back in the dark, when he was going into Fitzpatrick's presence … after the brawl".[165]] *They left soon after*.[166] Mrs Kelly remained, and Fitzpatrick got up *from the floor*. *Ned's sister* [Kate] *was present then.*[167] Ned said to him, "I'm sorry that this happened, as it was you; it will get me into trouble. I'll get it pretty heavy". Fitzpatrick said it was nothing.[168] When he got up his revolver was on the table, taken to pieces and unloaded. He put it together, then Ned took it out of his hand, and asked if he had any more ammunition. He said no. Ned kept the ammunition from the revolver, then began to examine Fitzpatrick's wrist. *It was swollen, and the bullet was seen under the skin*. He said, "Here's the bullet, we must have it out", and got a rusty razor *to cut it out*. Fitzpatrick wanted to go home and get a doctor to remove it, but Ned *refused*, saying, "You can't go away with that in your hand". Fitzpatrick said he would operate himself. He cut the ball out *with a sharp pen knife*. It was a small pointed ball, like the one produced [in court]. Ned took the bullet and Mrs Kelly bandaged his arm. He saw a bullet mark in the bark partition where he had been standing.

Fitzpatrick went outside, and sat on a log.[169] *Ned followed him*, and called Dan to bring in his horse [to put behind the house].[170] Ned said he was very plucky to suffer the pain, and said, "Now I spared you, you must spare me. How will you manage to say you were shot?" He replied that he would not mention who shot him. Ned said, "say you shot yourself, or you had better say this, that you went up to arrest Dan who was in company with Williamson,[171] *that you had your revolver out, and in putting the handcuffs on it went off and shot you*, and then Dan took the ammunition from you".[172] *Afterwards* Ned asked him if he knew a man named Whitlow, and he answered no. Ned told him to say this, *as it would do better*: "two men rushed from behind a tree as you were arresting Dan, two big men, one like himself, who they would think was his brother Jim, and the other was Whitlow. Then say you heard one of them cry out, "'Oh! Whitlow, you've shot him.'"

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had fainted, and Williamson stated that Skillion was subsequently despatched for horses. Fitzpatrick never suspected Byrne's existence, but saw Skillion immediately prior, and heard him talking while recovering.

[164] This paragraph is sourced largely from Fitzpatrick's Beechworth deposition, *O&M,* 10 October 1878, 5.

[165] Williamson, in Kenneally, *Inner History,* 54.

[166] Corroborated by Williamson, remission letter: Ned told him "to run into the yard some horses which were on the flat and to tell Skillion to go to Harty's [sic] … four miles away and bring two more horses", a roughly two hour return task.

[167] Dan had already left the room; cf. Beechworth deposition, "Ned Kelly, Mrs Kelly and her daughter were then in the house" (*O&M,* 10 October 1878, 5).

[168] Ibid.

[169] Ibid.

[170] Ibid.

[171] *O&M* (ibid.) has Skillion here; possibly a reporter's error.

[172] This may be the origin of the Kelly variant that Fitzpatrick shot himself inside the house during a struggle with Dan.

He gave as a reason for saying this that both the men were miles away *at the time*.[173] Ned told him to say a lot of other things that Whitlow was supposed to have said. [He should say that the one like Jim] was the man who stole Jackson's and Frost's horses, and altered the brands from G to OO, one a little chestnut horse with a bad back, which he sold to Kennedy on the other side of the Murray.[174]

Ned also *compelled* him to make an entry in his *notebook* at the time of the conversation, so that he would not forget it. *(Book produced and entry read to somewhat similar tale as above.)*[175] Fitzpatrick wanted to leave, but Ned would not return his revolver, making the excuse that they were catching the horses.[176] He said, "If you *go home and* say I shot you, you'll get no credit for it. The Government won't reward you, but I'll make it worth your while. I'll give you a few hundred which I will have after the Baumgarten case is over. They only want me to keep out of the way until the case is over".[177] Fitzpatrick said he wouldn't mention it.[178] Mrs Kelly was there then, and she told Ned to say that if Fitzpatrick told of it *he'd not be alive long*, as they had plenty of friends about. Ned said it would be no use the police attempting to hunt him down, as he was too well acquainted with the country and could watch the police without himself being seen, and that he would never again be taken alive.[179] Fitzpatrick then went and got his horse *from behind the house*, where Dan had tied it at Ned's instruction so as not to be seen. *His hand was very painful*.[180] Ned gave him his revolver and Dan brought his handcuffs. They bade him good night and shook hands with him.[181]

Ned showed him out of the panel about 10pm, *and he started for Benalla*.[182] Ned accompanied him as far as the pound, with Dan following them. It was a fine, starry, moonlight night.[183] When he was about 2½ miles from Kelly's, about 10.15pm, he saw Williamson and Skillion about 100 yards behind, coming after him on horseback.[184] He

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[173] Jim was gaoled; Whitlow was the Oxley pound-keeper (Williamson, remission letter).
[174] Fitzpatrick, *O&M*, 10 October 1878, 5.
[175] At Beechworth Fitzpatrick replied to Barry that he "made the pencil entry in the book while sitting on the log; the other entries a few days afterwards", *O&M*, (ibid.). Fitzpatrick's notebook cannot be located.
[176] Corroborated by Williamson, remission letter.
[177] Fitzpatrick, *O&M*, 10 October 1878, 5. "A few hundred" (Benalla deposition) matches Fitzpatrick's Beechworth deposition, and rules out the alternative reporting of "five hundred" in the *Federal Standard*. The words sound similar.
[178] Ibid.
[179] *Argus*, 22 April 1878, 3.
[180] Cf. Williamson, remission letter: "Kate Kelly said he was in great pain".
[181] Fitzpatrick, *O&M*, 10 October 1878, 5.
[182] Fitzpatrick to Crown Solicitor, 20 September 1878, VPRS 4966 Unit 1 Item 4; he erroneously said 11pm in *RC* Q12859. The time of departure was more likely around 9:45-9:50pm, as the soon-mentioned 2.5 miles would take almost 30 minutes at 5.3mph. All timings are obviously approximate, but viable.
[183] Fitzpatrick with Lindsay, *O&M*, 10 October 1878, 5); two days before full moon ("1878 Australia", www.timeanddate.com).
[184] Fitzpatrick to Crown Solicitor, 20 September 1878, VPRS 4966 Unit 1 Item 4; timing corroborated by Williamson's remission letter, that Ned told him and Skillion "to take the horses up on the range and wait there till they came. [They] waited there about an hour when Dan and King [Byrne] came up and took the

spurred on [for the remaining 1½ miles] to Lindsay's at Winton [which he reached "between 10 and 11 at night", i.e. around 10:30pm].[185] He dismounted, but was too weak to stand up.[186] David Lindsay and his brother Richard helped him inside and gave him some brandy [and water].[187] [David testified that "he could not take it at first".[188] He also testified that Fitzpatrick was quite sober upon arrival.[189]] Fitzpatrick told them what had happened. They re-bandaged him, and Richard accompanied him to Benalla, which he reached about 2am.[190] [Fitzpatrick's narrative ends here. On this estimate he would have left Winton somewhere between 12:00 and 12:30am. Seven miles to Benalla at a gentle walk, around 4mph,[191] would take over 1.5 hours.]

Whelan corroborated that Fitzpatrick woke him at 2am. He deposed that he "saw a mark like a bullet wound" and sent for Dr. Nicholson. The doctor examined and dressed his wrist, while Whelan took a statement.[192] Nicholson later testified "there was the smell of brandy on him", but that he "was certainly not drunk".[193] (This did not prevent FitzSimons claiming that on his way back through Winton, Fitzpatrick drank himself "into a stupor until the early hours of the morning".[194]) Whelan trusted the integrity of Fitzpatrick's statement, which would be rigorously tested by cross-examination in the courts, and set in motion the issuing of warrants against the accused in accordance with law. Allegations that Fitzpatrick was impaired by alcohol before or during his call on the Kellys, or got drunk afterwards, should be rejected on the independent testimonies of Nicholson, Lindsay, and his daughter, as malicious fabrication.

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horses and started. Skillion and I then started for home, near which place we met Ned Kelly who said that he had been seeing Fitzpatrick on the road".

[185] Report of David Lindsay's testimony: "Fitzpatrick was at his house between 10 and 11 at night. He appeared faint and sat down." (*O&M,* 10 October 1878, 5) The context is clearly the time Fitzpatrick arrived at Lindsay's, and he was still 1.5 miles away at 10:15pm.

[186] Corroborated by Lindsay, ibid.

[187] Ibid.

[188] Lindsay deposition, Benalla, 17 May 1878, VPRS 4966 Unit 1 Item 4.

[189] Lindsay testimony, *O&M,* 10 October 1878, 5; ditto Mrs James (Lindsay's daughter), *Northern Star*, 30 December 1930, 7.

[190] The official Benalla record says "Rd" (Richard) accompanied him to Benalla; the *Federal Standard* has David; but Richard is corroborated by Lindsay's daughter, *Northern Star*, 30 December 1930, 7.

[191] Horse gait, "walk", https://en.wikipedia.org/wiki/Horse_gait#Walk, accessed 17/8/2015.

[192] Whelan, *RC* Q5947.

[193] Nicholson, *O&M*, 10 October 1878, 5; corroborated by Mrs James, *Northern Star*, 30 December 1930, 7, "A drink Fitzpatrick had with [Richard] Lindsay in Benalla before he reported was the only other one Fitzpatrick had, and that may have given rise to the rumours that he was drunk".

[194] FitzSimons, *Kelly*, 134.

NED'S SHIFTING TALE

In the Euroa letter, Ned claimed he was not present; that Fitzpatrick spoke to Williamson on the hill, then to a man he falsely swore was Skillion, Skillion being away after horses at the time which witnesses could prove. Fitzpatrick then rode to the house to arrest Dan. They went inside. While Dan was eating, Mrs Kelly said Dan need not go unless he chose because Fitzpatrick did not have a warrant. According to Ned, Fitzpatrick drew his revolver. Dan said Ned was coming, and while distracted, Dan seized the gun, threw Fitzpatrick "and part of the door outside, and kept him there until Skillion and Ryan came with horses". Fitzpatrick invented a story about being shot, and advised Dan to "clear out" as Steele or Brown would be there in the morning. The Jerilderie letter gave a wordier presentation of the same narrative.[195] Skillion's alleged early absence is refuted by Williamson's 1881 remission letter, which also told a story by Ned, similar to the one he gave Fitzpatrick, of Fitzpatrick's injury resulting from a man shooting at him on the hill. (Williamson said he could never have thought of that, and would say nothing.)

On 7 August 1880 the *Age* published a short version of the "affair" from Ned's solicitor David Gaunson. It has Mrs Kelly asking Fitzpatrick if he had a warrant, and explicitly states that after a struggle Dan "made him a prisoner". On 9 August the *Age* published a longer narration of Ned's version, said to be from a reporter's interview conducted three days earlier in the Beechworth gaol. The *Argus*, however, reported that both the gaol governor and the sheriff "state emphatically that no such interview took place". The only permitted visitors were his solicitor, priest, and doctor. "The only reasonable deduction … is that the report [was supplied by] Gaunson".[196] There is nothing remotely approaching its highly polished prose anywhere in Ned's other writings or reported speeches. (A four paragraph excerpt was recycled unchanged as the much-quoted Condemned Cell letter of 1 November 1880.[197])

In the report, Ned asserted that Fitzpatrick had been drinking while watching for Dan to come home. He saw Dan and said he was wanted on a warrant, agreeing to let Dan eat dinner. Mrs Kelly asked why Dan was going with Fitzpatrick; in this version it was Dan who asked to see the warrant. Fitzpatrick drew his revolver. Dan disarmed him as previously, but then "gave it him back and let him go, not offering any violence whatever. A day or two afterwards my mother, Skillian, and Williamson, both of whom were not present on that occasion, were arrested…. Fitzpatrick's statement is false from beginning to end". In this version, Ned's previous statements that Dan made Fitzpatrick a prisoner after seizing his revolver have disappeared. It challenges Fitzpatrick's integrity, sobriety, and Dr Nicholson's not probing the wound, all lines pursued in the Assizes. There is also

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[195] Kelly, *Euroa Letter*, 5-7; *Jerilderie Letter*, 21-4.
[196] *Age*, 7 August 1880, 6; *Age*, 9 August 1880, 3; *Argus*, 10 August 1880, 7; visitors refused: telegrams, VPRS 4967 Unit 2 Items 33, 50. Gaunson was named as the author by "Peerybingle" in *O&M*, 17 August 1880, 3.
[197] E.g. Meredith and Scott, *Acrimony*, 80; Dean and Balcarek, *Ned and the Others*, 379.

a unique claim that "since the trial the doctor has told Fitzpatrick that his wound was never caused by a bullet", completely at odds with Nicholson's evidence.[198] In sum, Ned's story keeps changing (as did those of his family and associates), and the defence arguments vary accordingly. Much of it demonstrates pathological lying, a trait that would continue in his endlessly shifting stories about Stringybark Creek and Glenrowan.[199]

THE AFTERMATH

Williamson, Skillion, and Mrs Kelly were each arrested by Steele over the following night on charges of aiding and abetting the attempted murder of Fitzpatrick.[200] Fitzpatrick returned to Mrs Kelly's some days later "*with Sgt. Whelan and Const. Reilly* and looked for a bullet mark *where he had noticed one strike*, but found two sheets of bark removed from the place where he had previously noticed the bullet mark". He stated that he had no doubt about the identities of Ned, Dan, Williamson and Skillion.[201] Williamson's remission letter confirms they were all present at various times throughout that evening. Fitzpatrick's testimony holds true.

Fitzpatrick was temporarily transferred to Beechworth in May 1878, and then to the Richmond Depot on 13 September for his own safety.[202] Kelly confederate Aaron Sherritt approached him in Beechworth on more than one occasion and offered to lead him to the Kellys, as he would also try with Detective Ward in January/February 1879.[203] Jones speculated that this was an attempt to provide the Kellys with a "valuable hostage" towards the release of their mother.[204] But it would more likely have resulted in the Kellys – who had gone bush – disposing of their most hated trooper.[205]

Marked 'sick" with "general mounted duty and drill" throughout October 1878, after the Stringybark Creek ambush Fitzpatrick applied to rejoin the hunt for the Kellys, and

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[198] Kenneally, *Inner History*, 60 repeated Ned's claim as fact. Dr Nicholson testified that the wound "might have been produced by a bullet … The wounds are consistent with Fitzpatrick's statement. Either of the bullets produced could have caused the wound", *O&M*, 10 October 1878, 5. On bullet wounds see Gregory Blake, *Eureka Stockade: A ferocious and bloody battle* (Newport: Big Sky, 2012), 203. Graham Fricke, *Ned's Nemesis: Ned Kelly and Redmond Barry in a Clash of Cultures* (North Melbourne: Arcadia, 2007), 104, n.18, noted that as Nicholson had not witnessed the incident, his testimony was proper and correct.

[199] Russ Scott and Ian MacFarlane, "Ned Kelly – Stock Thief, Bank Robber, Murderer – Psychopath", *Psychiatry, Psychology and Law*, 21.5 (2014), esp. 732-734.

[200] Steele, Statement 17 May 1878, VPRS 4966 Unit 1 Item 4.

[201] Fitzpatrick, Benalla deposition, VPRS 4966 Unit 1 Item 4 with *Federal Standard*, 25 May 1878, 3.

[202] Fitzpatrick, *RC* Q12808; *Record of Service*; Muster Rolls, VPRS 55 Units 8-9.

[203] Fitzpatrick, *RC* Q12925; Ward, *RC* Q13847.

[204] Jones, *Friendship*, 62.

[205] Ned said he would "roast him", McIntyre, prosecution brief, VPRS 4966 Unit 1 Item 1; "he would rush through a hundred bayonets to get at [Fitzpatrick]", *O&M*, 21 December 1878, 4.

joined others on special duty in NE District search parties from 1 November to 28 February 1879.[206] He was then sent to Sydney, NSW to watch for any of the gang attempting to escape by ship. He soon identified Jim Kelly, who was in Darlinghurst Gaol under a false name.[207] Working 12 to 14 hour days he was twice reprimanded for lateness in mid-March.[208] In early May he appears to have been playing detective in an obscure intrigue in which a servant woman he had befriended was accused of stealing jewellery from her employer, and his honesty was called into question.[209] Although he denied any wrongdoing he was bluntly recalled to Victoria, paid up to 14 May.[210] Standish saw his conduct as "calculated to bring discredit on the Victoria Police" and said he was only retained in the Force "due to the injuries he sustained in the discharge of his duty last year and the probability of his being required to give evidence at some future inquiry", warning him that he would be dismissed for any further serious misconduct.[211] From 18 June to 16 September 1879 he was recorded as in the Police Hospital, and on 27 July was fined for laughing there after hours.[212]

He transferred to Lancefield on 17 September 1879, Standish having given instructions that he was to be kept "under a tight hand". He fell out with his OIC, Const. Joseph Mayes, and further charges of misconduct (to which he pleaded not guilty) followed. He was cautioned twice in early 1880, and Standish held him to be "unsteady and unreliable".[213] Eventually, on Mayes" report that he "had associated with the lowest persons in Lancefield, and could not be trusted out of sight, and never did [his] duty", he was dismissed from the force.[214] Mayes had a strongly negative view of the adequacy of many young officers and was especially hostile to Fitzpatrick, whom he held personally responsible for the Kelly outbreak.[215] Discharged by Standish on 27 April 1880 "for inefficiency and insubordination", Fitzpatrick was denied any opportunity to reply.[216]

On learning of his dismissal, over 100 residents of the Lancefield district petitioned the Chief Commissioner that Fitzpatrick had given excellent service throughout his time there, and urged his reinstatement. Specifically, the petitioners said he was "zealous, diligent, obliging, and universally liked, while we never saw him in company of any but the best citizens. Had he been what [Mayes'] report was said to allege it could not have

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[206] Fitzpatrick, *RC* Q12945-7; Muster Rolls, VPRS 55 Unit 8.
[207] Fitzpatrick, Report, 5 March 1879, VPRS 4969 Unit 1 Item 31.
[208] Fitzpatrick, *RC* Q12921; *Record of Service*.
[209] Police correspondence, VPRS 4969 Unit 1 Item 30.
[210] Fitzpatrick, Report, 7 May 1879; Standish, Memo, 12 May 1879, VPRS 4969 Unit 1 Item 30.
[211] Standish, Memo, 25 May 1879, ibid.
[212] Fitzpatrick, *RC* Q12897; *Record of Service*; Muster Rolls, VPRS 55 Units 8-9.
[213] Fitzpatrick, *Record of Service*; Standish, Memo, 14 February 1880, VPRS 678 Unit 70 file z265.
[214] Fitzpatrick, *Record of Service*; *RC* Q12903-6; Q12892; Standish, Memo, 25 May 1879, VPRS 4969 Unit 1 Item 30.
[215] Mayes, *RCP* Q2481-8; at Q2481, "I had a great deal to do to get rid of him, and at last had him dismissed".
[216] Standish, letter to Chief Secretary, with file note, 23 April 1880, VPRS 3991 Unit 1257 Item 81/5048; Fitzpatrick, *RC* Q12893.

escaped our attention. He made several clever captures and appeared to us as one of the most efficient and obliging men in the force".[217]

The signatories included "what appears to be nearly all the prominent merchants, publicans and farmers of the district".[218] Standish replied on 10 May, writing that in his opinion "the Ex-Constable's conduct during the time he was a member of the Force, was generally bad and discreditable…. I cannot hold out any hope of his ever being reinstated".[219] Fitzpatrick's 18 May request to the Chief Secretary for an enquiry into his dismissal, supported by Robert Harper MP, was declined, and an appeal to the Premier on 28 May by Lancefield J.P. James Lockwood to reconsider Fitzpatrick's case had no effect.[220]

The matter did not end there, however. A second petition, addressed to the Chief Secretary and ignored to date in the commentary, was drawn up by the citizens of Lancefield twelve months later, and forwarded on 15 June 1881 by Alfred Deakin MP.[221] The petitioners were "aggrieved that no notice whatever was taken of the earlier petition", and asked that the Chief Secretary "either cause a Board of enquiry to be held so that Alexander Fitzpatrick could answer the charges made against him or reinstate him into the Police Force". In response, Acting Chief Commissioner Chomley wrote to the Chief Secretary that Fitzpatrick's file showed him "quite unfit for the Police Force", and that he had heard him spoken about "in places where he was known before he joined the service and I have always heard him described as a liar and a larrikin".[222] Chomley ignored both that Fitzpatrick had come well recommended and that three years of Kelly-obsessed publicity doubtless encouraged such beliefs. With no allowance for his extraordinary experience at the hands of the Kellys, Fitzpatrick felt harshly treated after three years of service. He told the 1881 Commission that the petitions should have counted for more than Mayes' report, and that his character had been "greatly injured" through his discharge "and being mixed up with the Kellys".[223] He would hold to the end of his days that in that regard, he had properly done his duty.[224]

Given strong public support for Fitzpatrick by the people of Lancefield, that his sworn testimony is largely corroborable, and that he had a good service record through to March 1879, he appears to have been justified in believing himself to have been wrongfully dismissed. The grounds for his dismissal are to be found in Standish's memo of 23 April 1880. Proposing Fitzpatrick's immediate discharge, Standish wrote that Fitzpatrick had

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[217] Lancefield petition, VPRS 4969 Unit 1 Item 30.
[218] MacFarlane, *Unmasking*, 170.
[219] Standish, letter, VPRS 4969 Unit 1 Item 30.
[220] Fitzpatrick, endorsed letter to Chief Secretary, 18 May 1880, VPRS 3991 Unit 1257 Item 81/5048; Lockwood, letter, 28 May 1880, ibid.
[221] Petition, 15 June 1881, VPRS 3991 Unit 1257 Item 81/5048.
[222] Memo, Chomley to Chief Secretary, 23 June 1881, VPRS 3991 Unit 1257 Item 81/5048.
[223] Fitzpatrick, *RC* Q12923-4, Q12994 (26 July 1881).
[224] Fitzpatrick, in Cookson, "*Kelly Gang"*, 93-4 (23 September).

"deteriorated", listing first, his unforgotten disapproval of Fitzpatrick's initial refusal to marry his pregnant fiancée in 1877; second, the displeasure Standish felt at complaints about his officer from the NSW Inspector-General of Police; and third, Mayes' view that Fitzpatrick was "useless and unreliable …an unreclaimable larrikin". The unforgiveable offence for which Fitzpatrick had ultimately been discharged was "a piece of gross impertinence to his superior officer", Mayes.[225]

CONCLUSION

Fitzpatrick's call at the Kellys to arrest Dan Kelly was lawful, planned and sanctioned. He broke no regulations, was not intoxicated, was never infatuated with Kate Kelly, and did not assault or molest her. Mrs Kelly would not countenance Dan's arrest despite his consent. She initiated the fracas by summoning Ned, whose presence is amply attested, and who shot at Fitzpatrick without a second thought. In Fitzpatrick's view, "any constable would have been in the same position".[226] Had it been a better aimed bullet, or from a more powerful revolver (such as a .44 Webley or Colt) rather than a .31 or similar small ball, it could well have been fatal.[227] The charge of attempted murder was not at odds with Ned's intention, and indeed murder was freely discussed. Kate admitted to Steele "that only for her they would have finished Fitzpatrick off", an intention corroborated by Williamson.[228] From Fitzpatrick's testimony, Ned's letters, Mrs Kelly's initial admission to Steele, and Williamson's remission letter, charges of aiding and abetting were clearly appropriate for Mrs Kelly and Dan. Williamson was present on his own admission and was at least an accessory after the fact, as was Skillion on Williamson's statement, regardless of his likely absence during the fracas.

It was almost certainly Byrne, not Skillion, at the fracas. It is viable that Skillion walked past with a horse just before the incident as Fitzpatrick stated, was there directly afterwards as Williamson corroborated, but, as Ned insisted, was not part of the actual fracas. The only man who could have saved Skillion – by admitting his own presence – was Joe Byrne. As he never did so, Skillion's cause was lost. Ned had only himself (and his mother) to blame for the fracas and its outcome, regardless that the resulting prison

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[225] Memo, Standish to Chief Secretary, 23 April 1880, VPRS 3991 Unit 1257 Item 81/5048. Standish found one of the two complaints (Campbell's) about Fitzpatrick at Lancefield unwarranted, and saw no "cause or justification for official interference", Memo, Standish to Under Secretary, 19 April 1880, loc. cit.

[226] Fitzpatrick, *RC* Q12879.

[227] Jones, *Short Life*, 105 claimed Ned was "a deadly marksman" but this is based on Ned's own claims, and signs of target practice around the Stringbark Creek log hut. With small black powder revolvers such as the .31 Colt, both the precision and the "man-stopping power" was unpredictable (Blake, *Eureka Stockade*, 30, cf. 131, 196-7). Ned fired three shots with apparent intent to kill, ceasing only upon Fitzpatrick's courageous grappling with him, once he realised who Fitzpatrick was.

[228] Steele, *RC* Q9215; Williamson to Green (29 October 1878, VPRS 4965 Unit 5 Item 353), "King [Byrne] said that in place of being shot through the arm, he should be shot through the heart".

sentences were arguably excessive. Fitzpatrick's vilification was a product of the attempt by the Kellys and some close associates to escape punishment for involvement in the fracas. When this failed, they continued to decry Fitzpatrick as part of a desperate effort to obtain the release of Mrs Kelly, Skillion and Williamson from prison.

Ned's various statements are a series of ever-shifting fabrications with the central theme of being victimised by the inevitable police response to his extensive, ongoing criminal activity, much of which preyed on passing drovers and on other small selectors" livestock and plough horses.[229] He was certainly no Robin Hood or 'social bandit" before the incident.[230] By contrast, this paper has presented a comprehensive reconstruction of Fitzpatrick's testimony from its several partial sources. The amalgamated narrative provides a coherent account of the April incident, with independent corroboration of many key points and timings. The differences in its source iterations are minor and not self-contradictory. As Insp. Winch said to the Commission, "There was a great deal of talk that this business was owing to the misconduct of Fitzpatrick. You will see by [Williamson's affidavit] that that was mere nonsense".[231]

Since 1878 Fitzpatrick has almost universally been the subject of hostile treatment based on partisan prejudice and selective presentation of the evidence.[232] Certainly his service record sank from March 1879, but there is no reason to extrapolate that deterioration backwards into his successful first year and a half, as many writers have done. There is likewise no excuse for presenting piecemeal excerpts from his depositions interspersed with comments like "extraordinary" and "preposterous" to justify a more favourable image of Ned Kelly.[233] Similarly, the presentation of pure invention, such as FitzSimons having Fitzpatrick drink himself "into a stupor" after the fracas, in direct contradiction to source evidence, undermines efforts to construct reliable history.[234] Kelly history is riddled with misrepresentations of documents and records that are then recycled as fact.[235] Redeeming the integrity of Fitzpatrick's testimony and of his service record, at

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[229] Kelly, *passim*; Doug Morrissey, "Ned Kelly and Horse and Cattle Stealing", *Victorian Historical Journal* 66.1 (1995), esp. 40-2; cf. Fitzpatrick, *RC* Q12888-90; Whelan, Report, 3 November 1880, VPRS 4969 Unit 1 Item 29.

[230] Cf. George Boxhall, *History of the Australian Bushrangers*, 3rd ed. (London: Unwin, 1908), 189, "I have no desire to raise any doubts as to the generosity and benevolence of Robin Hood, but I can find no evidence of any such beneficence on the part of any of the Australian bushrangers".

[231] Winch, *RC* Q14296.

[232] Fitzpatrick to Cookson, "*Kelly Gang"*, 94 (23 September), the public "listened greedily to any tale at that time, and my position was most unenviable". Kenneally's entire "loaded dice" argument is built on selective evidence.

[233] Jones, *Short Life*, 98-9; FitzSimons, *Kelly*, 138; cf. Clune, *Kelly Hunters*, 132-4, "fantastic and improbable".

[234] FitzSimons, *Kelly*, 134.

[235] E.g. Corfield's much-cited *Encyclopedia*, 165, states that Fitzpatrick was discharged "as a perjurer and a drunkard", wrongly lending authority to the Kelly's allegations of perjury and drunkenness. As noted, it was rather for "inefficiency and insubordination", with all issues dated after his posting to Sydney.

least through to March 1879, is a key part of setting the record straight. As a historical figure Ned Kelly will likely always occupy a contested ideological space; nonetheless, the maltreatment of Fitzpatrick by so many hands suggests that a rigorous reappraisal of much other Kelly mythology is in order.

ABBREVIATIONS

O&M *Ovens and Murray Advertiser* (Beechworth).
RC *Police Commission, Minutes of Evidence taken before the Royal Commission into the Police Force in Victoria, together with Appendices.* Melbourne: Government Printer, 1881.
RC2 *Police Commission, Second Progress Report of the Royal Commission of Enquiry into the Circumstances of the Kelly Outbreak.* Melbourne: Government Printer, 1881.
RCP *Royal Commission on Police, Proceedings of the Commission, Minutes of Evidence, Appendices etc.* Melbourne: Government Printer, 1883.
SLV State Library of Victoria.
VPM Victoria Police Museum.
VPRS *Victorian Public Record Series*, in the Public Records Office Victoria.

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The Recruiting and Training of Apprentice Musicians in the Australian Military in the 1950s

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Abstract: *In 1951 the Australian military introduced an apprentice musicians' course to their recently formed Military Apprenticeship Scheme. This decision was made to increase dwindling personnel numbers in Australian military bands. However, unlike other apprentices under the scheme, early apprentice musicians did not receive any formal trade qualifications upon completion of their course. This article explores the recruitment and training of apprentice musicians in Australia in the 1950s. It examines the Australian military's attempts to both compensate them for their lack of formal qualifications, and create a long term career structure within the military for graduates of the apprentice musicians' course.*

Keywords: *Apprentice, military bands, Australia, 20th century, military music, military history.*

After World War II, personnel numbers in the Australian military fell to levels not seen since the end of World War I. During the later war, a total of 990,900 Australians had served in the defence forces, but by 1950 numbers had fallen to just 34,237.[1] As the Cold War progressed and the threat of Communist insurgencies in Southeast Asia loomed, the Australian military hierarchy decided that recruitment levels needed to be increased across the defence forces. As a result, the Military Apprenticeship Scheme was implemented in the army in 1950, and the other forces soon followed, allowing boys between 14 and 18 to become fulltime members of the Australian military.[2] In 1951, in response to a shortage of military bandsmen, an apprentice musicians' course was added

* I would like to thank my two anonymous reviewers for their helpful comments.
[1] Joan Beaumont, *Australian Defence: Sources and Statistics* (South Melbourne: Oxford University Press, 2001), 244, 306.
[2] "Australian Army Apprentices Association," Australian Army Apprentices Association, accessed January 10, 2014, http://www.austarmyapprentice.org/.

to the syllabus.[3] This article uses archival evidence and interviews with former participants to explore the recruitment and training of apprentice musicians in the Australian military in the 1950s.

The experiences of Australian apprentice musicians are yet to be explored in an academic work and this article aims to begin to fill that lacuna. The formation of the apprentice musicians' course is an important point in Australian military band history as it marks a major change in recruiting policy, being the only point at which boys under the age of 17 were trained to act as fulltime military bandsmen.[4] The two year course was also the longest period of training ever provided to bandsmen in the Australian military and the only time that people with no musical experience were recruited as fulltime, professional military bandsmen.

This paper builds on studies of recruitment in Australian military bands, such as Roland Bannister's article examining the effects on the band service in relation to another major change in recruiting policy, the 1984 introduction of women into military bands.[5] The experiences of apprentice musicians in the 1950s impacted on future recruiting policies as it demonstrated the difficulty of training people with no prior experience. As shall be shown, the inclusion of a musicians' course in the Military Apprenticeship Scheme prompted the introduction of a formal career structure, with regular opportunities for advancement in both the army and air force (the navy had had such a system in place since the 1930s). As a result of these experiences, the army band service studied by Bannister in the 1980s and 1990s consisted of highly experienced, often university educated musicians with a clear career structure ahead of them.

As well as recruitment within military bands, this article also explores the musical training the boys received, thereby building on Roland Bannister and Damon Cartledge's work on musical education in the Australian military.[6] This study will demonstrate a number of the problems faced by the military in attempting to provide a solid musical education to musically inexperienced apprentices and it will show some of the early

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[3] Defence Division in Department of the Army, "Enlistment of Band Boys." 1949-1958. National Archives of Australia (Series MP 927/1, Control Symbol A251/7/269).

[4] Between 1911 and 1927 boys aged between 14½ and 16 serving on the training ship HMAS *Tingira* formed volunteer bands, however they were being trained for general naval service, not specifically as bandsmen. Robin Himbury, *The Evolution of the Royal Australian Navy Band: A Chromatic Chronicle* (Woollahra: Pacific Books, 2011), 29.

[5] Roland Bannister, "Gender, Change and Military Music in the Australian Anzac Tradition: A Critical Perspective," *Context* 14 (Summer 1997-1998): 5-14; Roland Bannister, "Soldier-Musicians in an Australian Army Band: Understanding the Lived Experience of Gender," *Yearbook of the International Council of Traditional Music* 28 (1996): 131-146.

[6] Roland Bannister and Damon Cartledge, "Music Eduction as Vocational Education: A Study of the Australian Defence School of Music," *ASME XI National Conference Proceedings: New Sounds for a New Century* (1997): 9-13; Roland Bannister and Damon Cartledge, "New Musicians in an Old Tradition: Music Education as Vocational Education at the Defence Force School of Music," *Research Studies in Music Education*, 21/1 (1999): 58-67.

solutions that were devised. Bannister and Cartledge describe the apprentice musicians' course as the forerunner of the Defence Force School of Music courses which they explore in their research.[7] In examining military music education in the 1950s, this article fills an important gap in the literature on Australian military music education, and in doing so, provides a more detailed picture of military music education in the second half of the twentieth century.

Apprentice musicians were introduced into the Australian Regular Army (ARA) and the Royal Australian Navy (RAN) in 1951, with the Royal Australian Air Force (RAAF) beginning its program in 1955.[8] Originally known as band boys in the ARA and boy musicians in the RAN, in 1954 the recruits were renamed apprentice musicians and junior musicians respectively.[9] To avoid confusion, the term apprentice musician will be used throughout this article. Although apprentice musicians and other members of the band service were primarily being trained to provide music, they were also active members of the military, and during their apprenticeship boys received ten hours a week of basic military training over and above their musical training.[10] As Bannister writes, "soldier-musicians are, in the eyes of their employers, indeed soldiers, soldiers whose specialty is music and ceremony."[11] Prior to the end of World War II, army bandsmen had been trained to serve as stretcher-bearers and RAN bandsmen, while on active service, worked in the transmitting station. However, by the 1950s, musicians' primary military role was ceremonial. Soldier-musicians recruited in the 1950s would have been particularly aware of the military side of their service. Both the navy and army band services had faced high casualty rates during World War II, and many bandsmen were taken as prisoners of war.[12] The RAN band service suffered the highest casualty rate of any RAN corps during the war.[13] Bands also served on ships during the Malayan Emergency (1950-1960) and the Korean War (1950-1953).[14] The primary role of musicians during these conflicts was musical and ceremonial duties, however, in the RAN when action stations were called they performed a range of tasks, such as loading and preparing ammunition. ARA musicians continued to work as stretcher-bearers in Korea but, in the Malayan

[7] Bannister and Cartledge, "Music Education as Vocational Education," 10.
[8] Himbury, *The Evolution of the Royal Australian Navy Band*, 58; Royal Australian Air Force, "Purchase of Band Instruments for RAAF Central Band" 1954. National Archives of Australia (Series A705, Control Symbol 22/2/91).
[9] Himbury, *The Evolution of the Royal Australian Navy Band,* 55; Defence Division in Department of the Army, *Enlistment of Band Boys.*
[10] Defence Division in Department of the Army, "Enlistment of Band Boys in the Australian Regular Army" 1950-1951. National Archives of Australia (Series MP897/1, Control Symbol 127/1/809).
[11] Bannister, "Soldier-Musicians in an Australian Army Band", 133.
[12] See, for example, Malcolm Uren, *A Thousand Men at War: The Story of the 2/16th Battalion, A.I.F.* (Loftus: Australian Military History Publications, 2009), 10-11; Lindsay C Cox, *Brave and True: The Band of the 2/22nd Battalion* (Melbourne: The Salvation Army Australia Southern Territory Archives and Museum, 2003), 126-127; Himbury, *The Evolution of the Royal Australian Navy Band,* 46-47.
[13] John Trendall, *A Life on the Ocean Wave: The Royal Marines Band Story,* (Dover: Blue Band Magazine, 1990), 122.
[14] Ernest Trotter (retired military musician, ARA) in discussion with the author, September 2011.

Emergency, this was phased out and replaced with duties such as resupplying troops and manning the canteens.[15]

The Military Apprenticeship Scheme was not the first time boys under 16 had been trained for military duty in Australia. Between 1911 and 1936, the RAN, Australia's oldest fulltime military force, had trained 25 boys at a time, aged between 14½ and 16, for ratings positions (non-officer ranks) aboard HMAS *Tingira*.[16] The RAN also trained boys aged between 13 and 17 for officer positions at the Royal Australian Naval College from 1913 to 1934. However, this had been on a small scale, with between 12 and 30 boys in each year level.[17] Both of these groups of boys were trained for general naval service, not specifically as naval musicians, although some of the boys aboard HMAS Tingira did form volunteer amateur bands during their training.[18] While the RAN's training of boys under 17 had been on a small scale, the Military Apprenticeship Scheme was much broader. It included all three branches of the military (army, navy and air force) and trained boys in a range of trades. This was the first large scale training of boys under the age of 17 in the Australian military.

Boys joining the Military Apprenticeship Scheme did so on a fulltime basis, in lieu of further secondary schooling. Upon completion of their studies, staying in the military was not optional, with fulltime service being required for a further six years. As apprentices were being taught trade skills, they were not expected to become officers, but to take up ratings appointments. Apprentice musicians, in particular, were often recruited from orphanages and boys' homes, as shall be demonstrated later in the article. Prior to the introduction of musicians into the apprenticeship scheme, the ARA offered apprenticeships in eight trades:[19]

- Fitter
- Blacksmith
- Vehicle mechanic
- Electrician
- Telecommunications mechanic
- Carpenter and joiner
- Plumber and pipe fitter
- Bricklayer

[15] Ross MacNamara (retired military musician, RAN) in discussion with the author, July 7, 2012.
[16] Himbury, *The Evolution of the Royal Australian Navy Band,* 29.
[17] I. J. Cunningham, *Work Hard, Play Hard: The Royal Australian Naval College 1913-1988,* (Canberra: Australian Government Publishing Service, 1988), 4, 8, 14.
[18] Himbury, *The Evolution of the Royal Australian Navy Band*, 29.
[19] Defence Division in Department of the Army, *Enlistment of Band Boys.*

Apprentices in the above fields completed five years of training and received nationally recognised qualifications. At the completion of their training they had a six year service obligation to fulfil and, at the end of that time, they were free to leave the military as fully qualified tradesmen. Apprentice musicians, on the other hand, received 18 months (later increased to two years) training but received no formal qualifications. As F.R. Sinclair, the Secretary to the Department of Treasury, Defence Division, stated:

> Band-boys will be taught an art which for the great majority will have little or no remunerative value outside the Army. So far as is known there are no brass bands on full time duty except in the Services.[20]

Although Sinclair was referring to ARA bands with their brass band instrumentation, his statement remains true for the RAN and RAAF bands which used concert band instrumentation (wind, brass and percussion). Australia's only professional civilian concert band, the ABC Military Band, had disbanded in 1951.

The training the boys received in the 1950s resulted in no formal qualifications. It was highly vocational and highly specific to their role as soldier-musicians.[21] Unlike other military apprentices, the training delivered by the army band service, as it stood at the time, did not provide a viable long term career prospect outside of the military for most of the boys involved. At the end of their six year service obligation, they had few career options other than to stay in the military.

The Australian military introduced a number of measures in response to the difference in career prospects between musicians and other apprentices. While other military apprentices began their training at 14, apprentice musicians, whose course of training was shorter, did not enlist until the age of 15. In the 1950s, this was the age at which "the majority of young people" in Australia left school to seek employment.[22] This meant that if apprentice musicians later chose to leave the military, they would not be disadvantaged by having a lower educational standard than the majority of the population. Further, in acknowledging that their apprenticeships were not recognised outside the military, apprentice musicians received higher rates of pay than other apprentices.[23] Pay rates operated on a sliding scale, depending on a boy's age and which year of his apprenticeship he was in. An 18 year old apprentice musician in his final year received 16 shillings and two pence more per day than an apprentice of the same age in another trade.[24]

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[20] F.R. Sinclair, Secretary, Department of the Treasury in Defence Division in Department of the Army – Central Office, *Enlistment of Band Boys*.
[21] Roland Bannister and Damon Cartledge, "New Musicians in an Old Tradition," 58-67. For a more detailed discussion on the differences between military and civilian musical training in Australia, see Bannister and Cartledge's studies on vocational education at the Defence Force School of Music.
[22] Johanna Wyn, *Touching the Future: Building Skills for Life and Work*, (Camberwell: Australian Council for Educational Research, 2009), 3.
[23] Defence Division in Department of the Army, *Enlistment of Band Boys*.
[24] Ibid.

This difference in pay rates caused friction between apprentice musicians and other military apprentices, resulting in apprentice musicians being "belittled and victimised…not because of their shortcomings as soldiers, but because they [were] Band Boys."[25] An army memo dated, 24 March 1954, identifies jealousy over apprentice musicians' wealth compared to other military apprentices as being one of the primary causes of this bullying, specifically, their ability to purchase items such as radiograms, radios and archery and spear fishing equipment.[26] This victimisation was identified by an unnamed member of the music staff, as one of the major causes of unrest among the 1954 army intake of band boys.[27] This intake was originally 30 boys but, by the end of the first year, eight had been discharged as illegal absentees and a further six had applied for transfer.[28]

In 1954, in an attempt to minimise the unrest between apprentice musicians and other apprentices, the pay rates of apprentice musicians were altered. While their overall pay was not changed, their take-home pay was reduced to the same as that of other apprentices. The difference was made up by free provision of clothing throughout their training, with any additional pay being deferred and paid in a lump sum at the completion of their course (or, for those who did not complete the course, upon discharge from the military).[29] At the same time, the ARA changed the name of the rank of band boy to apprentice musician on the grounds that it was "a more attractive and descriptive name than bandboy (*sic*), and conforms to the usage of the Apprentices School."[30]

While a series of memos found in the Defence Division in the Department of the Army's *Enlistment of Band Boys*, housed at the National Archives of Australia, demonstrates friction between apprentice musicians and other apprentices, my research has not uncovered any instances of resentment of apprentice musicians from older members of the band service.[31] This stands in marked contrast to Bannister's findings concerning the introduction of women to the ranks in 1984. Even though women were eventually accepted by their male colleagues, Bannister identifies initial concern among some members of the service as they believed that women would undermine the smooth running of military bands.[32] The same was not true for apprentice musicians because, by the time they completed their training and joined the senior band service, they were men of the same age as other recruits.

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[25] Ibid.
[26] Ibid.
[27] Ibid.
[28] Ibid.
[29] Ibid.
[30] Ibid.
[31] Ibid.
[32] Bannister, "Gender, Change and Military Music in the Australian Anzac Tradition", 11-12.

For members of the ARA and RAAF bands, the introduction of apprentice musicians was part of a policy specifically aimed at improving the career prospects for all musicians serving in the armed forces. While staff at the apprenticeship school were concerned about the lack of career prospects for apprentice musicians *outside* of the military, there was also significant concern about long term career prospects for musicians *within* the military.[33] The problem was first identified by the RAN in the 1930s (the RAN was the only branch of the Australian military to have a fulltime band service prior to World War II), when they had difficulty attracting recruits for bands for their newly-purchased light-cruisers.[34] Two of the major problems discouraging the enlistment of new recruits was a lack of career structure for bandsmen and wages. Pay rates on enlistment were below award rates, with the average pay increase for RAN musicians in the 1930s being 11 pence over 12 years of service.[35] With provision for only one Bandmaster and two Band Corporals per ensemble, the majority of RAN musicians would never see promotion.[36] The RAN had solved this problem by 1939 with the introduction of trade tests. Trade tests were a series of exams based on a specific trade (in this case music), "with successful candidates receiving a pay rise, and incremental pay rises every three years for the first 12 years of service."[37] The original RAN trade test for musicians included a minimum six months service, a musical exam (usually conducted by a unit's Bandmaster) in which musicians were tested on two instruments (or one as soloist) and an exam on the use of fire control instruments.[38]

While the trade test system had provided the RAN with a career structure for musicians from the 1930s, the ARA and RAAF were still in the process of forming such a system when the first apprentice musicians were recruited (indeed, the RAAF's professional band service was only formed in 1954, just a year before the recruitment of the first RAAF apprentice musicians). As such, for musicians in the ARA and RAAF, the introduction of apprentice musicians could be seen not as a threat but as part of a process aimed at ensuring a smooth career progression for military musicians from apprenticeship through to retirement. For example, in 1954, three years after the introduction of apprentice musicians, ranks for musicians in the ARA were:

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[33] Defence Division in Department of the Army, *Enlistment of Band Boys*.
[34] Although only the RAN had a full time professional band service, all three forces had amateur bands made up of members of the military who volunteered their time and musical skill;
Anthea Skinner, "The Band Aboard HMAS *Sydney*," *Re-Visions: Proceedings of the New Zealand Musicological Society and the Musicological Society of Australia Joint Conference hosted by the University of Otago, Dunedin, New Zealand 2010* (2013): 154.
[35] Royal Australian Navy, "Review of Service Conditions 1939 – Band Ratings Pay and Allowances" 1921-1940. National Archives of Australia (Series MP150/1, Control Symbol 437/202/112)
[36] For further discussion of recruiting and pay changes to the 1930s RAN band service, see Skinner, "The Band aboard HMAS *Sydney*".
[37] Skinner, "The Band aboard HMAS *Sydney*", 157.
[38] Royal Australian Navy, "Review of Service Conditions 1939".

- Apprentice musician
- Recruit musician
- 2-Star bandsman
- 3-Star bandsman (this rank was still being approved).
- Band non-commissioned officer (NCO)
- Band sergeant
- Bandmaster

Once recruited, apprentice musicians underwent an 18 month course to train them to become military musicians. This course was extended to two years after a number of boys, many of whom had no prior musical experience, failed to reach the required standard of musicianship at the completion of their course.[39]

Post-war Australian apprentice musician training, like much of Australia's military policy at the time, was based on the British military system. While the Australian apprentice musicians' course was in its infancy in the 1950s, the British army and navy had been recruiting apprentice musicians (known in the British system as band boys) since at least the nineteenth century.

While both the British and Australian systems recruited apprentice musicians without any kind of musical aptitude testing, the British system was more effective for a number of reasons. British band boys were recruited at 14, giving them an extra year of training over Australian boys. Further, they were not expected to work as military musicians throughout their entire career. Instead, training as a military musician was supposed to provide good grounding in the discipline of army life so that the boys could move to roles more central to the needs of the military as they grew. This meant that if they did not excel on their instruments, they could be transferred out of bands as soon as they entered the regular army or navy. The British army and navy also recruited many of its band boys from military boarding schools which specialised in band training. Two such schools were Newport Market Army Band School and *Arethusa* Training Ship. Research participant Archie Burt attended Newport Market Army Band School from the age of nine. When he turned 14, the minimum age of enlistment, he was driven by one of his teachers directly from the school to the local barracks to enlist.[40] Like the Australian apprentice musicians of the 1950s, Burt did not receive any musical aptitude testing prior to enlisting as a band boy. However, by the time he reached 15, the minimum age for Australian apprentice musicians, he had already received six years of training as a soldier-musician.

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[39] Defence Division in Department of the Army, *Enlistment of Band Boys*.
[40] Archie Burt (retired military musician, British Army, Royal Australian Air Force) in discussion with the author, February, 2012.

While British band boys were trained for general military life, Australian apprentice musicians were trained specifically to serve as musicians. The Australian Military Apprenticeship Scheme was already training boys as young as 14 for other aspects of military life and, consequently, apprentice musicians were simply not needed to fill the gaps. Despite this, many Australian apprentice musicians did not receive musical aptitude testing during recruitment, resulting in a number of the boys failing to make significant improvement. The low level of musical skill in newly recruited apprentice musicians is shown by the subjects covered in the first semester of the army's apprentice musicians' course (see figure 1). They covered such basic skills as forming an embouchure (correct lip position) and producing a note. By the end of the first semester (a quarter of the way through the two year course), the boys were only expected to be able to play "simple Hymn tunes, in combination as a band."[41]

Practical	**Theory**
1. Introduction to the instrument and elementary maintenance.	1. To learn all definitions, as in "Davenport's Elements of Music".
2. Formation of the embouchure.	2. The relative length of notes, and rests; elementary study of Time.
3. Production of a note.	3. The dotted note.
4. The function of the valves.	4. Study of Clefs and the Grand Stave.
5. The harmonic series, and the compass of the instrument.	5.Study simple intervals.
6. To learn, and play the natural scale and exercises in that key.	6. Learn the degrees of the scale.
7. To learn, and play the scale of G major and exercises in that key.	7. Learn all the key signatures.
8. To learn, and play the scale of F major and exercises in that key.	8. Recognition of all written intervals
9. To play simple Hymn Tunes in combination as a Band	9. Theoretical knowledge of all major scales.

Figure 1: Topics Taught in Semester 1, Army Band Boys' Course, 1954.[42]

Graduating apprentice musicians were required to serve in bands in the Australian military for a minimum of six years. However, the standard required to complete the course did not require them to play at a professional level. The required level of musical skill for army apprentice musicians graduating into the regular army was:

[41] Defence Division in Department of the Army, *Enlistment of Band Boys*.
[42] Ibid.

- To be able to play major and minor scales, up to four flats and four sharps.
- To be able to play band parts at an average band standard.
- To have thorough knowledge of the instrument, both in its musical function, and for maintenance…
- To have good knowledge of the Rudiments of Music …[43]

The low standard of musicianship in the first intake of apprentice musicians quickly resulted in the implementation of musical aptitude testing of potential new recruits. One particular recruit, Band Boy Henson, appeared so well suited to life as a military musician that he is mentioned in formal military recruiting letters.[44] As a result, his example directly influenced the Australian military's recruiting policy for apprentice musicians. Henson was a member of the 1952 intake of army band boys. It was noticed by his instructors that not only were his musical skills far in advance of the other boys, but his "bearing, ability and general demeanour" were ideal for a young soldier.[45]

Henson was so well suited to life as an army apprentice musician because he had grown up in a Salvation Army Boys' Home. Many boys' homes had strong brass band programs, and boys that had grown up in them were already accustomed to the bad food and strict discipline of institutional life.[46] Prior to the passage of the 1954 *Children's Welfare Act*, Australian orphanages had "no agreed minimum standards of food, clothing, living conditions, recreation, health or training."[47] As such, the conditions at institutions varied widely. Indeed, prior to the introduction of social workers in the 1960s, even the process of deciding who should be admitted into an Australian orphanage was made on an ad hoc basis. Decisions were often made "based on whether or not beds were available rather than [on] an assessment of the family's circumstances and options."[48] Not all of the children housed in orphanages were actually orphans, as the homes also included children whose families lived in poverty, child migrants, Aboriginal children, children with mild disabilities, children of single mothers and children displaying delinquent behaviour.[49]

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[43] Ibid.
[44] F.R. Sinclair in Ibid.
[45] Ibid.
[46] Christine Kenneally, "The Forgotten Ones," *The Monthly*, August 2012, 31.
[47] Karen Twigg, *Shelter for the Children: A History of St Vincent De Paul Child and Family Service 1854-1997* (Melbourne: Sisters of Mercy, 2000), 80.
[48] Beth Robertson, "Orphaned in South Australia: Oral Histories about Growing up at Goodwood Orphanage," *Oral History of Australia Association Journal* 17 (1995): 88.
[49] Caroline Jones, "Adoption: A Study of Post-War Child Removal in New South Wales," *Journal of the Royal Australian Historical Society* 86.1 (2000): 51-64. The experiences of Aboriginal children removed from their parents (known as the Stolen Generation) has been the subject of government enquiry, as have the broader experiences of children in care. Details of those enquiries can be found at https://www.humanrights.gov.au/publications/bringing-them-home-stolen-children-report-1997and

Boys who had grown up in such institutions were already used to the "highly regulated institutional life" that the military had to offer.[50] A participant in Robertson's study on orphanages in South Australia sums up the combination of dependence and independence which was fostered at such institutions, and which helped to make the children so suited to life in the military:

> Part of me had this over-reliance on authority because they made decisions for us and life was so regimented we didn't have to think for ourselves, and yet another part of me was very independent because the nuns encouraged us to look after ourselves. So there was that contradictory situation and it's something that I've always lived with since – something I'm very conscious of.[51]

So while the British band boy system relied on recruits from specialist military schools, the Australian military discovered they did not need to train boy musicians under the age of 15 in this way. Orphanages and boys' homes with brass band programs were already providing the necessary skills the military desired.

In 1952, a letter was sent from the ARA to the Chief Secretary of the Salvation Army, regarding sourcing recruits from its Boys' Homes.[52] Included with the letter were recruiting pamphlets and application forms for the apprentice musicians' course. The letter cited Band Boy Henson's success in the program and went on to say:

> It would be appreciated if you would bring these pamphlets to the notice of the officer in charge of your Boys Homes, in case they may know of boys who are willing to enlist and are suitable for training as Army musicians.[53]

In reality, many orphanage directors had been sending their young charges into the military since before the war. However, by directly targeting these boys, the Australian military now formalised the process.[54] In her study of post-war adoption practises, Caroline Jones found that residents of orphanages were "trained to fill unwanted jobs in domestic service, agriculture and industry" and, in this case, the military.[55]

Judging by the number of ex-residents of orphanages in the Australian military band service in the 1950s, the policy of recruiting directly from boys' homes seems to have been successful. Ross MacNamara, was in the second intake of Band Boys in the RAN

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http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Completed_inquiries/2004-07/inst_care/report/index.

[50] Robertson, "Orphaned in South Australia," 91.

[51] Ibid., 94.

[52] F.R. Sinclair, to Chief Secretary Salvation Army, 18 March 1952 in Defence Division in Department of the Army, *Enlistment of Band Boys*.

[53] Ibid.

[54] William Sheehan, "The Pre-War Orphans", *Noteworthy News* (Australian Army Band Corps Association, November 3 1992).

[55] Jones, "Adoption".

and commenced his apprenticeship in 1951. He remembers that he learnt of the course from friends who lived at the local Salvation Army Boys' Home.[56] Likewise, William Sheehan writes in his memoir that during his post-war service he "never served in a Regimental or Command Band that did not have at least two 'Old Boys.'"[57] The term 'Old Boys' was used by ex-residents of these orphanages to describe themselves.

Former RAN apprentice musician, Ross MacNamara, remembers his apprenticeship as an intensive training period with a steep musical learning curve. Apprentice musicians received only four hours of leave each week, which was taken on a Saturday afternoon. For the rest of the week they were:

> All the time in the same place, so you'd be practicing all the time, and once you started to learn, and got a little bit of an interest in it, you'd set up little groups and play a little bit of Dixieland or something like that, which must have sounded pretty bad, but anyway. That's what you did. And when you were at sea it was the same thing.[58]

Musically speaking, MacNamara was a success story for the RAN's apprentice musicians' course. He entered the service with no prior musical experience and went on to become a solo clarinettist serving in a number of RAN bands and completing a tour of duty during the Malayan Emergency (1950-1960). However, he left the navy in 1959, shortly after his six year service obligation was completed and never worked as a professional musician again.

It was recognised from the outset by staff training apprentice musicians that boys serving with adult men were vulnerable to abuse.[59] Policies put in place to protect them began with an effort to separate them from other men on base so, consequently, separate barracks, ablution facilities and mess areas were provided for them. By 1952, they were completely removed from regular army bases, instead training at Balcombe Apprentices' Training Centre. Navy apprentice musicians, though, stayed on at the main base at HMAS *Cerberus*.[60]

In 2013 the Defence Abuse Response Taskforce was formed to investigate more than 2400 registered complaints.[61] The instances of abuse highlighted by the taskforce demonstrates the vulnerable position those young men were in.[62] The previously

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[56] Ross MacNamara (retired military musician, RAN) in discussion with the author July 5, 2012.
[57] William Sheehan, "The Pre-War Orphans".
[58] Ross MacNamara in discussion with the author, July 5, 2012.
[59] Defence Division in Department of the Army, *Enlistment of Band Boys*.
[60] Ibid; Himbury, *The Evolution of the Royal Australian Navy Band*, 55.
[61] "Defence Abuse Response Taskforce refers first cases of alleged sexual abuse to police," *ABC News Online*. Last modified August 13, 2013. http://www.abc.net.au/news/2013-08-13/first-cases-in-army-sex-abuse-investigation-referred-to-police/4883120
[62] See, for example, "Smith Flags Royal Commission into Defence Sex Abuse," Last Modified June 15, 2012. *ABC News Online*, http://www.abc.net.au/news/2012-06-15/smith-flags-possible-royal-commission-into-defence-sex-claims/4072000.

mentioned bullying and harassment of apprentice musicians by other apprentices at the Army Apprentice School is discussed in the taskforce's *Report on Abuse in Defence*. The report goes on to state that "[a]lmost half the complainants who reported abuse at the Army Apprentice School experienced sexual abuse (29 complainants)" but it does not mention whether the 29 complainants included any apprentice musicians.[63]

CONCLUSIONS

The apprentice musicians' course marks a unique point in Australian military band history. In an attempt to boost flagging post-war recruitment numbers boys with little, if any, musical experience enlisted to be trained as fulltime professional musicians. Although it was based on the British band boy system, Australia, unlike Britain, did not have pre-existing military colleges to supply the military with pre-trained recruits. After a number of inexperienced apprentice musicians failed to complete the course, orphanages featuring brass band programs were directly targeted for recruiting campaigns to remedy this situation. This recognition of the difficulty of training musicians from scratch marked a turning point in the recruitment of musicians in the Australian military, with professional standards slowly increasing over time. As a result, by the 1980s and 1990s, musicians were recruited with extensive musical experience, as shown by Bannister and Cartledge's research.[64]

The need to provide apprentice musicians with a viable career structure also resulted in long term changes to the working lives of military musicians. While apprentices in other trades were able to leave the military with nationally recognised qualifications, the apprentice musicians' course did not provide similar long term security. As a result, the ARA and RAAF implemented a program of trade tests to ensure a viable career path for musicians. Based on the system the RAN had been using since the 1930s, trade tests allowed for regular assessment and promotion of musicians. This encouraged both the recruitment and retention of musicians.

The apprentice musicians' course in the 1950s was the beginning of a process of modernisation and professionalisation of the Australian military's band service. For the army and the air force it marked the beginning of a fulltime, professional band service. Recruiting boys with little musical experience for military service forced their instructors and commanding officers to closely examine both the educational requirements and the long term career prospects for military musicians. The decisions that they made created the groundwork for the formation of the highly educated, fulltime professional band service in the Australian military today.

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[63] Defence Abuse Response Taskforce, *Report on Abuse in Defence* (Canberra: Australian Government, 2014) 206.
[64] Bannister and Cartledge, "Music Education as Vocational Education", 11.

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Ground Zero, Nagasaki: Stories

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[Review essay: Seirai, Yūichi, *Ground Zero, Nagasaki: Stories*. Translated by Paul Warham. New York: Columbia University Press, 2014. 192 pages; RRP $34.99; ISBN: 978-0-231-53856-5]

Abstract: *Nagasaki was the second city to experience a nuclear attack at the end of WWII, seventy years ago. As we approach this anniversary, Paul Warham's translation of Seirai Yuichi's novel presents a fascinating window on the world view of the Catholic community, who were concentrated around Ground Zero in Nagasaki, in the locality of Urakami. Narratives such as that of the Christian minority divulge a lesser known history of Nagasaki. Here, we read of atomic memory touched by the themes of guilt, persecution and also resurrection.*

Keywords: *Nagasaki, Ground Zero, Catholicism, atomic memory, 70th anniversary, nuclear bomb, World War II, hidden Christians, persecution, resurrection.*

The atomic bombing of Hiroshima is commemorated in the famous Peace Dome (now a world heritage monument), and in a widely repeated Japanese narrative of Hiroshima, as *hibakusha*, innocent victims of a bombing. The bombing of Hiroshima is also central to debates about Japan's—and America's—war guilt, and the process by which the war in the Pacific ended. In contrast, little attention has been directed at Nagasaki, the second victim of a devastating nuclear attack. As we traverse the 70th anniversary of the end of the war, how do the people of Nagasaki remember this traumatic event? The translation of Yuichi Seirai's book is a timely one at this juncture, offering a new perspective on atomic memory.

Yuichi Seirai, a non-catholic whose real name is Nakamura Akitoshi, was born in Nagasaki in 1958, the year the Urakami Cathedral was finally rebuilt. He went to Shiroyama Elementary school, just west of 'Ground Zero', and later served as director of the Nagasaki Atomic Bomb Museum. He was encouraged to write imaginatively about the bombings by Hayashi Kyōko, famous author and atomic survivor of Nagasaki. These short stories, translated with aplomb by Paul Warham, immerse the reader in the world

view of the Christian populace who were decimated in 1945 when 8,000 out of 12,500 were said to have been killed in the bombing.[1]

Yuichi Seirai's novel *Nagasaki, Ground Zero: Stories*, is a fictional collection of short stories, centering on protagonists around Ground Zero, Urakami. By introducing a more personal element, this book effectively familiarises the reader with a post-bomb Catholic narrative. The Urakami Catholics described by Seirai are a diverse lot – they are definably Japanese and Catholic, but also Nagasaki citizens. These characters often have lucid memories of the bombing, albeit remembered through the lens of a marginalised community. Seirai's fictional characters are congruent with my own current research amongst the Urakami community (Figure 1), some of whom are Catholic and also *hibakusha kataribe* (spokespeople of A-bomb victims). Seirai apprises the Urakami narrative, and provides clues, although not necessarily direct answers, to the historical narrative around the end of the war.

Figure 1: Matsuo Sachiko, Catholic survivor and interviewee, 2014, Photo, the Author.

[1] Yūichi Seirai, *Ground Zero, Nagasaki: Stories*, translated by Paul Warham (New York: Columbia University Press, 2014). Seirai's work spawned a movie in 2013, '*Bakushin: Nagasaki no Sora'* or 'Under the Nagasaki Sky'.

Remembering Nagasaki rightly

In 1945, the region of Urakami and the city of Nagasaki delineated the populace into distinct social groups who were entirely unevenly impacted by the atomic devastation. Five percent of the inhabitants of Nagasaki were Christian (mostly found in the Urakami region) at the time of the bombing and yet they represented over ten percent of those killed by the bomb and a large proportion of *hibakusha* survivors. The Catholics from Urakami Ground Zero bore the brunt of the central force of the bombing. The 'Fat Man' bomb deployed over Nagasaki was of much greater force, equivalent to approximately 22 tons of TNT, than the approximately 13 tons of the 'Little Boy' bomb dropped on Hiroshima.[2] Descendants of the *Sempuku Kirishitan*, or 'Underground Crypto-Christians', who had returned to Catholicism following Japan's abolition of the anti-Christian edict in the early Meiji period, were amongst those who lost the most upon the scorched earth around Urakami, on August 9th, 1945.

Bombing as Persecution: the Catholic lens

Seirai's intimate knowledge of the local situation is evident in *Nagasaki, Ground Zero* and he illustrates well the omnipresent memories of the bombing for the Christian *hibakusha*, who swiftly theologised their nuclear memory, splicing it with a Christian narrative of faith, as Seirai's story "Nails" demonstrates:

> O-Ryo-san had come back to the family home after the house she had married into in Yamazato was destroyed in the atomic bombing. It was in this cottage that she had recuperated alone… O-Ryo-san had a faded scar on her cheek. I remember her standing under the persimmon tree gazing out at the remains of the ruined cathedral… We would hold our hands, tingling from the cold, over the hibachi and nibble on the dried flesh of the fruit, bursting with sweetness, as O-Ryo-san told us stories of long ago. Stories of distant ancestors who had gone, praying, to their deaths, burned alive at the stake; or of the narrow cages in which the faithful were imprisoned when whole families were forcefully removed to Yamaguchi in the final days of prohibition… O-Ryo-san told us how the ancestors had hidden an image of the Virgin and Child in this cottage and how they had prayed here in secret during the years when our religion was outlawed.[3]

[2] Yuko Matsunari and Nao Yoshimoto, "Comparison of Rescue and Relief Activities Within 72 Hours of the Atomic Bombings in Hiroshima and Nagasaki." *Prehospital and Disaster Medicine* 28, no. 06 (2013), 538.
[3] Seirai, *Ground Zero*, 6-7.

Even as their narrative is influenced by their faith, Seirai's protagonists' memories of the past divulge integration into the wider context of the Japanese war-effort. Christians perceiving their participation in war with ambivalence was apparent not only in World War II, but in still older conflicts dating to the days when mercenaries were recruited in some numbers from amongst the Christian populace of Nagasaki. Christian complicity in the wider context of the Japanese Shinto divine war setting is recalled in another of Seirai's stories. In Seirai's short story, "Insects", one Christian says to another, "I knew that he had been with the Special Attack Forces in Chiran and had received his orders for a final mission… I asked him once if he had really been ready to be enshrined with all the other war dead at Yasukuni, but he didn't reply."[4]

GUILT TURNED INWARD

The second last story in Seirai's collection, entitled "Shells", underscores themes of guilt and grace. The impact of trauma on family and community bubbles under the surface in this story, in which a father is driven to despair over his young daughter's premature death. He meets a neighbour, called Nagai (like the famous doctor), whose Catholic *hibakusha* sister had spent time with his daughter, and finds that his daughter and the neighbour's sister died on the same day, one day after that year's anniversary of the nuclear bombing. The woman who had looked after his daughter had suffered massive trauma in the bombing when she was a child of seven years. Nagai's sister had urged their mother to flee for safety from the family home as fire encroached, even though her siblings were trapped inside, still screaming for help. For Nagai's sister, the trauma of the bomb halted time: "For her, the bomb fell over and over again until the day she died."[5] Only forgetfulness helped this woman resist the trauma. She lived her life with a 'blank' in her head, a protective forgetfulness against the memories that threatened to envelop her again. "She said it was like something had gone numb inside her brain."[6]

Alongside this remembering and forgetting, an apocryphal tale told by her Grandmother, who had sadly perished in the bombing, acted for Nagai's sister as hope or even exoneration. In this inherited story, the Christians in the neighbourhood set fire to their own houses to warn the other villagers of an approaching tsunami. As a child, Nagai's sister cannot fathom what is good in this story, which results in their houses burning down. So her grandmother creates an addendum and declares that the house fires were extinguished by the coming of a wave, and left behind a debris of shells. For this

[4] Ibid., 57. For further reference to Christian participation in Japanese war, see the diary of Hayashi Ichizō, Christian *tokkōtai* pilot, in Emiko Ohnuki-Tierney, *Kamikaze Diaries* (Chicago: University of Chicago Press, 2007), 163-183.
[5] Yūichi, *Ground Zero*, 148.
[6] Ibid. 144.

survivor, shells and a rising tide become symbolic of a graceful end to the alternative unbearable torment of fire and loss.

This tale of Seirai reminds the reader of wider themes of Japanese and US war guilt. The intertwining of the memories of the bombing with Christian heritage and interpretations connotes a powerful distinctiveness for the atomic memory of Nagasaki. The woman's self-blame for the death of family members reflects what John W. Treat has described as the Urakami Christian community's tendency to passivity or to internalise blame for the bombing of Nagasaki.[7] Certainly, the blame game started immediately after the bombing of Nagasaki. Some survivors found a tendency to blame the self almost impossible to avoid. Citizens of Nagasaki suggested that the bomb was dropped on Urakami rather than Nagasaki, as "punishment for worship of the foreign god."[8] As well as the simple poignancy of the story, Seirai's tale delivers an Urakami narrative of exoneration from blame in the wider context of Nagasaki.

Furthermore, the Catholics called the devastation of the bomb the *go-ban kuzure*, or fifth persecution, and remembered well the so-called fourth persecution of their community, from the 1860s until 1873, when many of their sacred objects were confiscated.[9] Seirai's stories reveal deeper layers in Nagasaki's history, recalling the Cathedral ruins (Figure 2) but also the rebuilt Cathedral, as a part of a longer struggle to assert an identity of faith as resistance and endurance. Urakami Cathedral is mentioned several times by Seirai in Ground Zero, as a part of the natural landscape and holy places of the Catholic believers.

THE URAKAMI CHRISTIAN HIBAKUSHA

In this newly translated book, Seirai looks to Urakami for resurrection and new life and for promises from a lost history. The faith of the Christians, to some degree unbroken since Nagasaki was a 'Christian' town in the late sixteenth century, offers an alternative complexion to nuclear memory. Chronologies such as those of the Christian minority found here are worthy of ongoing consideration in history, as well as other forgotten and minority groups of Nagasaki, such as the displaced *buraku*.[10]

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[7] John Whittier Treat, *Writing Ground Zero: Japanese Literature and the Atomic Bomb* (Chicago: University of Chicago Press, 1995), 306.
[8] Ibid., 305.
[9] Kamata, *"Nagasaki no inori to ikari,"* in *Nihon no Genbaku bungaku*, 15 (1983):413. See also *Kirisitan Objects, Christian Relics in Japan 16-19th Century / Illustrated Catalogue of Tokyo National Museum* (Tokyo: Tokyo Kokuritsu Hakubutsukan, 2001).
[10] Buraku Kaihō Dōmei. Chūō Honbu, *Shashin Kiroku Zenkoku Suiheisha / Buraku Kaihō Dōmei Chūō Honbu Hen* (Ōsaka-shi: Kaihō Shuppansha, 2002), 119: "Nagasaki ken buraku shi kenkyusho, Furusato wa isshun ni kieta."

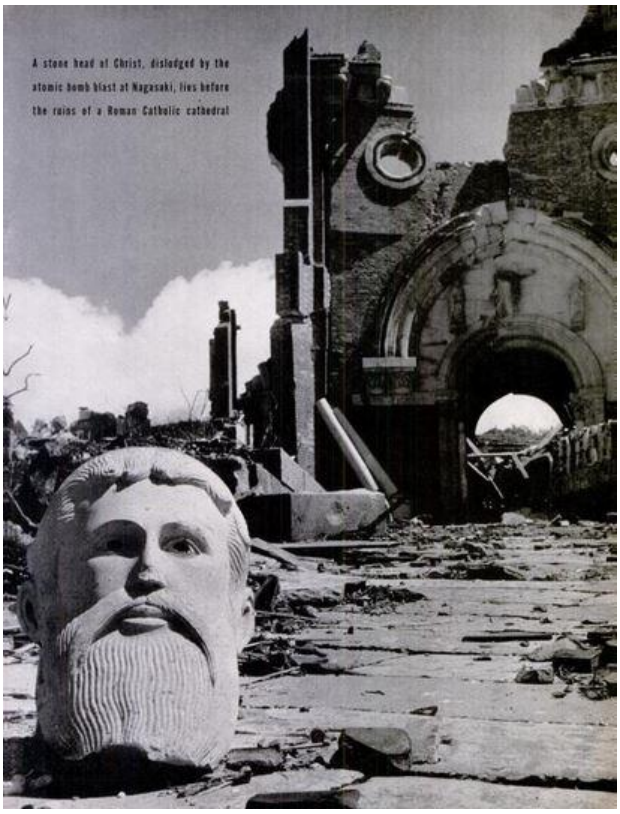

Figure 2: The ruins of Urakami Cathedral 1945, as depicted in Life Magazine, Public Domain.

In the final of Seirai's stories, a survivor who was an infant at the time of the bomb, is picked up by a kind woman; he is never able to find trace of his family. As this child becomes an adult, it is almost as though he is born of the nuclear bomb – everything else is a blank. His foster father one day takes him to Urakami, imagining where he came from, shortly after the 1959 completion of the Cathedral building:

> … Suddenly, the cathedral soared upward from behind the one-story wooden houses on the corner. I'd seen the new building on television, but the grainy impression on the black and white screen had not prepared me for the beauty and vigor of the new stone against a blue sky. My heart rose with it…A white crucifix hung above the altar. My foster father eventually caught up and stood by my side. 'That might be your god up there,' he whispered… I felt I had finally found my own Urakami.[11]

[11] Seirai, *Ground Zero*, 170.

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Book Reviews

Egypt and the Southern Levant in the Early Bronze Age
Felix Höflmayer and Ricardo Eichmann (eds)
Orient-Archäologie 31, VML Verlag Marie Leidorf, Rahden/Westf, 2014; Hardcover; 328 pages; 124 illustrations; 12 tables; RRP €69.8; ISBN: 978-3-89-646661-7

This offering stems from the proceedings of an international symposium on the synchronisation of the relative-chronological systems of the Near East, held at the Deutsches Archäologisches Institut in Berlin from 14th to 16th September 2011. Organised and subsequently edited by Felix Höflmayer and Ricardo Eichmann, Egypt and the Southern Levant in the Early Bronze Age includes contributions covering research areas from Jordan, Lebanon, Israel, Cyprus, and Egypt. The authors present results of recent excavations from Pella, Tell Fadous-Kfarabida, Tel Beth Yerah, Tall Hujayrat al-Ghuzlan, Helwan, Tell Arqa, and Khirbet el-Batrawy. The synchronisation of Egyptian, northern and southern Levantine, Jordanian, and Caucasian connections is also discussed from evidence at specific sites such as Tell Abu al-Kharaz, Tel Beth Yerah, Umm el-Qaab, Helwan, and Tell Arqa, though also more holistically from evidence collated throughout the Nile Valley and the southern Levant region during the 4th and 3rd millenniums BCE. Trade routes, socio-economic networks and cultural connections are explored over the broad geographic regions, with fresh perspectives from a Jordanian point of view, an excellent summation of interconnections between the Nile Valley and the southern Levant, and a discussion of the problems and evidence for synchronisation from the Sinai, Levant, and Egypt. The book starts with a forward in German, which sets this section apart from the contributions in English, and the Arabic abstracts following each paper. The fourteen contributions combine academic investigations from internationally renowned researchers. Bourke presents an interesting discussion of EBA evidence of the settlement at Khirbet Fahl and nearby Tell Husn. Fischer demonstrates cultural contacts at Tell Abu al-Kharaz during the Naqada period with the Jordan Valley, probably indirectly via the southern Levant. Forstner-Müller and Raue show that rare Levantine imports found at Elephantine, from the Fifth and Sixth Dynasty may reflect the prestige nature of such goods during this period. The article by Genz presents the excavations at Tell Fadous-Kfarabida, identifying six phases with some similarities to Byblos just 12km to the south. The work of Greenberg at Tel Beth Yerah is critical in understanding the EB II connections with the southern Levant and Egypt, though the site also entered the orbit of people from the south Caucasian region.

While interconnections are a consistent theme throughout the volume, there are numerous contributions that directly deal with the central topic specifically. Hartung provides an excellent summation of the connections between the Nile Valley and the southern Levant during the fourth millennium BCE, with a good incorporation of data

available to date. This helps to show the importance of interconnections before the rise of the Egyptian state, and highlights the flux of different types of connections during the EBA. Klimscha, Notroff, and Siegel continue the same theme of connections between the Egypt and the southern Levant during the fourth millennium BCE, although they do so from a Jordanian perspective. This highlights possible sites involved in a broader trade network beyond the southern Levant, linking the site of Maadi and Tall Hujayrat al-Ghuzlan, especially through evidence of metallurgy. Kafafi also attempts a brief summation of the archaeological evidence for this connection from a Jordanian perspective. This theme is also continued by Höflmayer's offering, with a shift to the late EBA, during the mid to late third millennium BC. This provides a focus on the contemporary textual and archaeological evidence, while also allowing a useful argument to note issues with the end of the EBA, suggesting a shift from 2300 to 2500 BC.

More archaeological contributions, such as the article by Müller, allow for a focus on the peak of Levantine imports into Egypt during the EBII with the reign of Den, with most imports attributable to this king. This helps to emphasise the focus and highpoint of foreign affairs during this part of the First Dynasty. Manning's discussion of radio-carbon dated material for Cyprus is useful in providing a chronology from the Chalcolithic to the MBA on the island, though it's connection with the wider Near East is not as evident in the volume. The study by Sala makes a connection between the Khirbet el-Batrawy in Jordan, and the Levant during the EB II-III, especially with the ceramic analysis. The synchronisation of Egyptian and Levantine chronologies is a particular focus by Köhler and Thalmann, as well as Sowada. The former provides important and up-to-date comments on the beginning and end of the Early Dynastic Period in Egypt, while also providing a link between Helwan and Tell Arqa during this time. This highlights the chronological connections between the northern Levant and Egypt, at sites aside from Byblos. The article by Sowada outlines potential problems with evidence from Egypt, the Sinai, and the Levant when regarding the chronologies of each geographic region during the Early Bronze Age. This is perhaps a fitting manner in which to end the volume, noting that further work still remains in synchronising the chronologies of each region for this time period.

An edited volume of multiple scholars, such as the Egypt and the Southern Levant in the Early Bronze Age, stems from a strong traditional of multi-authored collaborative volumes, such as Levy and van den Brink's *Egypt and the Levant* (2002), van den Brink's *The Nile Delta in Transition* (1992), as well as parts of the Egypt at its Origins series (2004, 2008, and 2011). Many of the articles within this volume make useful contributions to multiple fields. These embrace the synchronisation of cultural contacts between Egypt, the Levant, and Jordan, to the discussion of excavations and the results of this fieldwork within the broader framework of the historical setting in ancient Near East during the Early Bronze Age. As such, there are aspects of research which are beneficial for archaeologists, ceramicists, historians, and others both professional and

university students worldwide. A notable feature of those authors included in the proceedings is the international scope of scholars who have provided their analysis for the volume. This international scope represents and highlights the wide interest of the Early Bronze Age from various parts of the world, and also the need for multi-disciplinary collaboration to provide a deeper understanding of how Egypt, the southern and northern Levant, Jordan, and even Cyprus, and the Caucasus' are interconnected during this time period.

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Elephantine XXXV: The Lithic Industries on Elephantine Island during the 3rd Millennium BC

Thomas Hikade
Harrassowitz Verlag, 2014; Hardcover; 210 pages; RRP AUD$256.99; ISBN: 978-3-44-710131-8

The latest contribution to the knowledge of Egyptian lithic industries from the University of Sydney's Thomas Hikade focuses on the site of Elephantine during the 3rd millennium BC, and is a culmination of over 20 archaeological campaigns by the German Archaeological Institute from 1984 to 2004. Covering a time period spanning the Early Dynastic Period through to the First Intermediate Period, a work of this magnitude will be definitively well received by analysts working in the field of Egyptian, African and Near Eastern lithic industries. Unlike a large majority of archaeological reports, Hikade presents the analytical data of primary and secondary lithic industries from all excavated areas covered during the aforementioned campaigns at Elephantine with an archaeological contextualisation and proceeding discussion that makes this book an essential contribution for anyone interested in Egyptian lithic studies and the associated broader themes. Sections within this volume include a history of lithic studies in Egypt (I), raw material and procurement (II), a discussion of the spatial and chronological evolution of the site of Elephantine (III), the stone tool assemblages and knapping strategies (IV, V), comparison to contemporaneous assemblages and connection to the broader themes of economic systems and craft specialisation of the Egyptian state (VI), and a comprehensive catalogue of artefacts (VII).

Hikade opens with a discussion of the origins of dynastic Egyptian lithic industries, a dialogue which incorporates both key pieces of literature and models of interregional contacts. By incorporating seminal works such as Holmes, Caton-Thompson and Gardner, and McDonald, Hikade traces identifiable elements found within the Elephantine assemblage such as the bifacial flaking technique and distinctive blade

technology to their Neolithic origins in the Western Desert and the Levant. The author pairs this with a thorough catalogue of the various major types of raw materials found across Egyptian lithic assemblages, a contribution that is arguably one of the more valuable sections of his work. The pages on various types of flint, the most common type of lithic raw material in Egyptian contexts, is based on personal observations by the author at sites including Tell Ibrahim Awad, Maadi, Helwan, Abydos, Thebes, Hierakonpolis, and Elephantine, and provides an important and fundamental starting point for comparative analyses usually reserved for those fortunate enough to spend season after season handling archaeological material.

The chapters dealing with analytical data are separated logically into a collection of different localities: Northeast Town (including Satet North and Northeast Town extension), Satet East, East Town, Central Town (including South Hill, South Town, Southeast Town, and Areas FZTO, CTV, XXIV, XXX, and XXXI) and Area XII (Localities 1-5). By doing this, Hikade separates a vast assemblage of over 10,000 pieces into manageable and chronologically related segments, which he discusses in a set structure of primary modification (debitage), secondary modification (tools), and summarisation discussion. This not only facilitates ease of accessibility to the data, but also provides a valuable chronological distinction for those seeking more specific information on analytical statistics. Significantly, Hikade does not neglect the large percentages of ad hoc flake and blade tools which constitute a large percentage of all assemblages, giving them equal status amongst the discussion of more formal tool categories such as bi-truncated, regular blade tools and sickle elements.

Hikade closes his book with a discussion on the broader economic themes related to any comprehensive study of lithic industries, including a consideration of all stages of the chaîne opératoire: raw material procurement, transport, knapping strategy, tool use, and discard. He traces the evolution of the small, local lithic industry of Early Dynastic Elephantine to one that becomes intimately connected to the standardised distribution networks of a bourgeoning Egyptian state, a discussion which could be incorporated and applied more widely to other Egyptian industries of the 3rd millennium BC. Hikade concludes his inclusive discussion with a comparison to contemporary assemblages, among them Hierakonpolis, Abydos, Saqqara, Giza, ʻAin-Asil, Kom el-Hisn, Tell Ibrahim Awad, and Buto. Ultimately, the thirty-fifth volume in the archaeological series, Elephantine XXXV, presents a detailed analysis of the lithic industries from Elephantine, yet it also delivers a comprehensive and detailed discussion on the socio-economic context of Elephantine itself during the 3rd millennium BC. Complete with a thorough catalogue of artefacts, this English-language resource is an essential purchase for any lithic analyst that wishes to pursue Egyptian-based research.

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What is Military History?
Stephen Morillo with Michael Pavkovic
Polity, Cambridge: 2013; Second Edition; Paperback; 165 pages; ISBN: 978-0-7456-5979-4

Book-covers can be evocative or boring and the book-cover of the second edition of Morillo's classic text is a vast improvement over the first edition, and captures the historic breadth of this work. The earlier plastic soldier figure is replaced by three helmets from the Greek wars, medieval times, and modern conflict. This is an apt illustration as this book discusses the very political historiography of war through the ages culminating in the present. While being historically accurate, Morillo's work is also cutting and questioning and essential reading for anyone engaged in writing or reading war history.

This second edition updates the discussion of current controversies and notes the various ways that war history has been a critical tool in post-imperial engagements, as, for example, in the Middle-East. Chapter four may be indeed the most useful chapter in the book as it uncovers Western biases and the political use of war history texts. Morillo challenges ideas of U.S. exceptionalism, presenting both sides in the debates over the importance of new technology for war, and questions naïve notions of German blitzkrieg. His comments on Asian warfare and themes of continuity are also insightful.

Almost as useful are the two chapters on conceptual frameworks and the methods of writing military history. Chapter three introduces the frameworks of technological determinism and the role of the single military genius. There is good material on the assumptions that historians have about war, and useful ideas about epistemology, emotions and cultural factors. The social sciences, psychology and archaeology are all briefly introduced and how military historians use and interpret the findings from these fields.

Chapter five ably discusses the various forms of military research ranging from textual analysis through to the role of war simulations. This is refreshingly current and accessible and brings military history into the twenty-first century. Morillo also discusses social media as a means for disseminating research, a clear development since the first edition. No longer are academic journals sufficient: some aspects of medieval warfare can only be understood in a medieval re-enactment group using home-made armour and replicating as far as possible medieval circumstances. This content makes the book far more interesting than most.

The first chapter is a basic but good introduction to the whole area of military history, looking briefly at who studies and disseminates it and why. Chapter Two explores military historiography from ancient to modern times, noting some interesting trends and parallels. Almost every culture has embellished the stories of their wars and heroes for

political purposes. The last five decades have seen some significant shifts in writing war history and these are also discussed well.

The final chapter is an all-too-brief summary of future trends and, again, raises good questions about the political agendas attached to military history. There are good suggestions for further reading and useful endnotes. This work would serve as a good text for any course on military history or historiography in general. It is fresh and engaging, and Morillo is progressive in both his ideas and the way presents them. The book is solid yet provocative and raises many questions about military history and its uses and misuses.

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White Magic: The Age of Paper
Lothar Müller, trans. By Jessica Spengler
Cambridge: Polity, 2014; hardcover; 311 pages; RRP $25; ISBN 978-0-7456-7253-3

Paper has had an important place in shaping cultures but its history and significance has been understudied, so Müller's book fills a gap that we hardly knew existed. Paper's commonplace nature today makes it almost invisible, despite a deep entrenchment in almost every aspect of life. Müller surveys paper and life across the centuries and collects a large number of disparate uses of paper which he then weaves into a mostly fitting garment that shows just how significant paper has been and continues to be.

The thought experiment introduced in the prologue is truly provoking: what if some virus ate all paper, how would we survive? Paper has become a staple of modern life from court documents to books and even playing cards, and the author explores these and many other ways that we depend on paper. The author of this thought experiment considered paper's role a century ago, long before the modern technological boom, and even then he revealed just how dependent society was on paper. This reliance is a recurring motif in the book and is one of the threads that holds together the many sub-sections of chapters.

In his opening chapter, Müller traces the history of the development of various paper-making techniques, from papyrus in Egypt and rags and fishing nets in China, to wood-pulp-based production in Europe. Of particular significance is the role of Muslims in transferring the Chinese rag-based paper technology into Europe, supplanting the papyrus-based approach in just a few centuries. Müller notes the political ramifications of the Europeans glossing over this transfer, and shows just how much more invasive the new kind of paper was in contrast to the papyrus sheet.

Decentralisation of the production of paper liberated it into the hands of the masses, especially after the development of the printing press. But while other books concentrate on Gutenberg, Müller explores other aspects of printing such as the role of mill

technology and metal screens in large-scale paper production. He notes that paper production was, in contrast to papyrus, not reliant on seasons nor geographically limited. This meant that writing surfaces could reach a wide area and a large number of people, making, for example, the modern university that much more writing material-centric. Monks began copying all year round, Europeans started enjoying playing cards, and even produce was wrapped in paper.

The ubiquitous nature of paper is revealed in story after story by the author, in loosely related chapters. Some of the connections between groups of ideas, however, seem tenuous at best, and it may have been better to simply say, for example, that these next four topics relate to uses of paper in the nineteenth century. Overall, though, this grouping of ideas does provide some continuity in a work that could have seemed very disjointed.

Another recurring theme in the book is the impact of new technologies on cultures, specifically the uses of paper, and Müller discusses several intriguing cases of how paper transformed a process or institution. His material on file-based leadership, art, watermarks, modern print media, social media, the whiteness of paper, and the electronic revolution is absorbing and relevant. Paper is revealed as a fascinating source of much historic change.

In noting recent issues relating to paper usage, Müller foreshadows some future uses, but this is the thinnest part of the book. There is room to also discuss recent history which points to some of the future uses of paper, for example, paper-based sensing and medicine delivery. Mass-producible amounts of specialised paper senses allow for inexpensive diagnostics accessible by anyone, anywhere. This will revolutionise the medical industry in drug-delivery, disease-tracking, and in research. Müller does, insightfully, note that while computer-based techniques may appear to be increasingly replacing paper, the expanding uses of paper in emergent technologies makes us reliant on it in new ways.

This is an interesting book that reads somewhat as a historical novel rather than as a dry encyclopaedia of paper technologies, and, thus, it provides an accessible foundation for an appreciation of the historical role of paper. Müller's book offers many starting points for further research and is well worth a read for anyone interested in the impact of new technologies.

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