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'She-Devil' in the House: Millicent Preston Stanley's Political Mobilisation, 1924-26.

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Abstract

In 1924 Millicent Preston Stanley mobilised support from 20,000 women across the State for a campaign to amend the *Infants' Custody and Settlement Act, 1899*; in 1925 she co-opted similar support from women and men for endorsement as a Nationalist Party candidate for the Eastern Suburbs electorate. Elected in May 1925, the first woman in the NSW parliament, this lone woman 'movement-entrepreneur' experienced insurmountable impediments to her attempts to amend existing infant custody legislation. Her Private Members Bill was obstructed for twelve months before leave was granted; her First Reading Speech on 2 November 1926 attracted derogatory interjections from both sides of the Chamber; and the price demanded for her Bill proceeding to the Second Reading stage was crossing the floor to vote with the Government on Supply Bills. Without the co-optable support in the Parliament she had garnered outside it, she rejected this 'bribe' as compromising her 'personal honour'; her Bill was shelved; and in 1927 Preston Stanley was not re-elected. This paper examines Preston Stanley's political mobilisation for infant custody legislation reform, the tactics employed to thwart it in the parliament and her responses to the blockading strategies.

Introduction

I am not prepared to oppose the motion that leave be given to introduce the bill. I am very anxious to see the contents of the measure which the Hon Member has prepared, and I will not take up any further time devoted to private business.¹

These words were spoken by Attorney General Edward McTiernan in the New South Wales Legislative Assembly on 2 November 1926 at the close of the First Reading of a Private Member's Bill for reform of the *Infants Custody and Settlements Act 1899*. The time set aside for Private Member's business having expired the House went on to consider the Government's Closer Settlement and Returned Soldiers Settlement (Amendment) Bill.² The Private Members Bill had been moved by Millicent Preston Stanley, the first woman elected to the parliament on 30 May 1925. During her 'sojourn' in the House she hoped to introduce initiatives to improve the lives of women and children.³ As Deborah Brennan points, Preston Stanley covered in her maiden speech in August 1925 an 'extraordinary range of issues reflecting some of her campaigns' such as the prevention of maternal and infant mortality, provision of hygienic housing and care of mental defectives.⁴ Infant custody legislation reform, while not specifically mentioned in her maiden speech, had been an issue for her since 1920 when she had mobilised support from the Feminist Club and other women's organisations, including in 1924 gathering 20,000 signatures on the Emélie Polini Petition which was presented to the previous Minister for Justice, Thomas Ley. Despite this groundswell of support, her 1926 bill received no further consideration in the parliament, although it did become the subject of some vituperative interactions with Minister Cann in the Chamber later that month. In this paper I focus on her thwarted attempt to amend the *Infants Custody and Settlements Act, 1899*.

There is some discussion in the literature of Preston Stanley's Private Member's Bill initiative. Tony Smith states, somewhat dubiously, that she introduced her bill 'after adopting the case of a mother in a custody dispute'.⁵ Marian Sawyer and Marian Simms note her use of her editorship of the *Daily Telegraph* women's page during 1926 to support her motion for the bill and the bill's failure to go beyond the first reading stage.⁶ Elizabeth Smith, similarly noting the bill 'did not proceed any further' than the introductory speech, also points to its aim of preventing a 'repetition of the Ellis case decision', its omission of aspects included in the comparable English Act and its failure to include 'any machinery' to provide

for the practical workings for the amendments.⁷ Although she mentions Minister Cann's bribe Smith does not consider Preston Stanley's arguments or their reception in the Chamber.

Anthony Smith argues an 'accurate interpretation of events' requires an appreciation of the 'distinctive characteristics' of a political context.⁸ There has been little attention paid to the distinctive characteristics of Preston Stanley's political context in relation to her bill although Smith notes she entered a space designed by men decades prior to women's suffrage and therefore 'not intended to accommodate them' and moreover a space that boasted a well-established reputation as a rowdy 'bear pit'.⁹ He also argues a woman member was 'expected to conform to general "female" role types that arise prior to her role as MP', something Preston Stanley did not do.¹⁰ Indeed her 'advent' in parliament, not 'a popular innovation' prompted opposition from her own party both in the parliament and in the press.¹¹ Margaret Fitzherbert argues both her presence and her style 'incited parliamentary attacks'.¹² The style of Preston Stanley's speeches, arguably at odds with the female role type, elicited antagonism from some Members on both sides of the House.

Her position on the Opposition benches further limited her opportunities for influencing the parliamentary agenda. Preston Stanley used procedures such as Questions without Notice and Urgency Motions to bring the issue of maternal and infant mortality to the parliament's notice and the Private Member's Bill for the Infant Custody issue.¹³ However, the Government was able, and indeed did use counter-tactics to exploit these procedures for its own ends. Preston Stanley, a 'She-Devil' in the House was also an outsider in a parliament where the Government was experiencing its own internal disruptions.¹⁴ Gail Griffiths' argument that Preston Stanley's bill faltered because of the crisis in the Lang Government provides a partial account that invites further consideration.¹⁵ Through examining the distinctive features of the Hansard debate on her bill this paper seeks to provide a more comprehensive explanation.

Anthony Smith argues Hansard has limitations as a source for such an inquiry. Hansard records speeches (subject to some editing) and interjections (if they are responded to). It does not record actions or gestures of speakers, interjectors or listeners nor does it record who is present without speaking during a debate.¹⁶ However, a careful reading of Hansard does give 'a good impression of the style of debate' and something of the 'atmosphere in

the chamber'.¹⁷ Since the purpose of this study is to examine these aspects Hansard provides a useful source. My specific focus is on the content and style of the debate on the Bill on 2nd November 1926 as well as the Supply Debate on 29th November 1926 during which Preston Stanley outlined Cann's bribe. This examination allows a more nuanced understanding of how her Private Member's bill was thwarted.

That leave be granted

On 2 November 1926 Preston Stanley's notice of motion for her Private Member's bill which had been on the House Business papers for a year reached the No 1 position. Preston Stanley moved that leave be granted to bring in her bill to amend the *Infants Custody and Settlements Act 1899*. With leave granted she argued the case for three amendments: a maternal preference clause, a clause to provide for the wishes of the mother to be taken into consideration and another to prevent a mother needing to leave the court's jurisdiction from being denied custody on that account. Her justification for these amendments rested on an 1839 English Act and its subsequent amendments that provided equal rights for mothers and fathers as well as maternal preference and the judgement in the 1924 *Ellis v Ellis* case, where a good mother had been refused custody of her infant daughter in part because of her intention to leave the court's jurisdiction. This 1924 case, also known as the *Polini* case had been appropriated by Preston Stanley and was the subject of her 1924 Petition.

Preston Stanley's logical argument and justification did not appear to elicit support from either side of the House. Rather, interjections indicate resistance and opposition from both. Hansard records a total of twelve interjections during her speech: the names of two interjectors are not identified and the words of four interjections are not recorded but it is possible to infer the tenor of these from her responses as she repeats the content of each interjection before refuting it. For instance, she responds to an unrecorded interjection from Arkins by repeating the issue, 'Mr Arkins has drawn attention to a very important case ...' then refuting his statement with evidentiary support, 'The husband said nothing of the kind'.¹⁸

The only identified interjection from a Government Member was a sustained interaction between Dr Evatt and Preston Stanley. Evatt entered the parliament at the same election as Preston Stanley having newly graduated with a doctorate in law and University Medal. His

initial interjection, a statement that the courts 'have regard to the wishes of the mother' and subsequent interactions in which he suggested Preston Stanley's 'real objection' was to 'the application of the law in one case' appear defensive of legal procedures.¹⁹ Implicit in his interjections is an apprehension that Preston Stanley was using the parliament to overthrow the court decision in *Ellis v Ellis*. In her response Preston Stanley illustrated her careful preparation of her argument, her intellectual grasp of the situation and her tactical skill by quoting directly from Justice Harvey's judgement in the *Ellis v Ellis* case. Her response elicited from Evatt an acknowledgement and acceptance of her case, 'I did not know of that passage in the judge's decision. I accept what you say!'.²⁰

Two interjections came from fellow Nationalists. John Lee, who had been a Methodist Minister and member of the AIF, also focussed on *Ellis v Ellis* with a question about the bill's intended retrospectivity. Like Evatt, his concern was that she might be intending to use parliamentary process to overturn the court judgement. Her response indicated that she was not although she added the qualification that Mrs Ellis 'may make application under it for custody of her infant'.²¹ The interjections from James Arkins, who had defected to the Nationalists from Labour over the conscription issue were more provocative and revealed not only concern about the implications of legislation that might challenge traditional patriarchal values but also some antipathy towards Preston Stanley, herself. His interjections reveal a view of women that today might be labelled misogynistic as he suggested women (and Mrs Ellis in particular) were capricious, wayward and (Preston Stanley in particular) lacked the intellect to understand the issues, and thus needed to be corrected – 'If you read the report you will see ...'.²² Preston Stanley dealt with his attempts to contradict her (as she had done with his interjections on previous occasions) with measured firmness with statements such as, 'Men have just as many faults and peculiarities, and are just as difficult to live with as women' and 'We can allow Mr Justice Harvey to speak for himself'.²³

The bill, however, went no further than her speech with Attorney General McTiernan effectively shelving it without any date set for further consideration in committee. McTiernan made clear that the limited time 'devoted to Private Member's business' had expired. As Smith notes, 'infant guardianship did not have first priority' for the Government.²⁴ The Lang Government, which Thomas Bavin described shortly thereafter as

'defeated' had been experiencing troubles within its ranks with Labour Party/union discord, corruption charges, the resignation of Deputy Premier Peter Loughlin, threatened defections of Vernon Goodin and Robert Gillies, withdrawal of the budget, a censure motion and the controversial appointment of loyal Labor Party member, Arthur Tonge to replace Alick Kay in the seat of North Shore. Kay was elected in May 1925 as an Independent although he voted with Labor having asserted he would keep 'this Government in office for three years'.²⁵ After appointing Kay to the Metropolitan Meat Board in 1926, an appointment that Bavin called the 'most corrupt and indecent transaction', Lang used Kay's voting record in the parliament as justification under the *Parliamentary Casual Vacancies Act* for replacing Kay with Tonge who swiftly established his presence in the Chamber with questions without notice, speeches in support of bills and accolades for the 'best Labour Government the State has ever had'.

Absolutely improper advance

Although the Lang government survived the censure motion it had the sword of Damocles hanging over it in the form of Lang's compromise commitment to an early election. To delay this eventuality the government introduced a Supply Bill aimed at extending the government's term by four months. With numbers precariously balanced there was no guarantee the Supply Bill on 29 November would pass and Preston Stanley found herself caught in the cross-fire of the counter-tactics of the Minister for Health, George Cann, who attempted to enlist her vote. In return for crossing the floor, he offered her the power to influence the budget and government legislation particularly those bills she favoured, the Mental Defectives Bill, the Hospitals Bill, the Lunacy Bill and her Infants Guardianship Bill. She must have been sorely tempted to accept the offer: she later made reference to her desires for these measures to be introduced, 'much as I desire to see this legislation on the statute book' and 'no woman living desires to see that legislation placed on the statute book more than I do'.²⁶ Whether she considered the possibility that an election might provide a better opportunity for her agendas can only be conjectured. However, she rejected Cann's offer on ethical grounds: her integrity, honesty and honour would not permit her to succumb. As she said in the House, 'I am not prepared to buy even that legislation at the price of my personal honour' since 'If I think a thing is right I am not concerned with my party or even with my leader'.²⁷

Her contempt for Cann's 'absolutely improper advance' manifested itself in the parliament on 29 November during the committee stage of the Supply Bill debate.²⁸ Preston Stanley recounted the events surrounding Cann's offer and her actions, acknowledged she had engaged witnesses to the confidential documents he gave her and read into Hansard her letter rejecting his bribe. She further referred to an incident on 9th November when Tonge's Urgency Motion had precluded her item of Private Member's business from being addressed in the House. Throughout her speech Cann engaged in a vituperative exchange with derogatory accusations such as 'You are not sincere', 'you are misleading the women' and 'you are a squib'. These were also echoed by John Tully ('Why should you have preference over Mr Tonge?'), Christopher Kelly ('You deserve all you get') and Mark Gosling ('Do you honestly believe that for the sake of a problematical two months you have a right to sacrifice those women and children!'). Cann's response comprised an aggressive speech in which he recounted his version of the events in an endeavour to shift the blame to her. Admitting that he had rung her with an offer to 'put those measures through' in exchange for her support he asked 'Is there anything wrong with that?'. Amongst his recasting of the events he engaged in personal invectives such as Bavin's 'faithful vassal' and the 'most callous representative of women who could be in this House'. Perhaps his most problematic assertions were that he had made the offer to Preston Stanley without Cabinet's knowledge and that he did not know who wrote the letter she read to the parliament, but 'certainly Miss Preston Stanley did not'.²⁹ His speech elicited incredulity and condemnation from the Opposition and Preston Stanley herself interjected with multiple refutations of 'It is not true' and 'I did not'. Her attempts to correct Cann's version precipitated Evatt's point of order that her personal explanations constituted a 'reply to statements' and her final exasperated explanation:

*In regard to the statement made by the Minister ... I desire to say that what I said was that neither party in the house was particularly favourable to the aspirations of women.*³⁰

The tenor of the debate is captured in the interactions of the Chairman of Committee (Major Connell) who frequently called for order, warning against interjections, comments of a personal nature, and at one point demanding members refrain from 'an attempt ... to shout down the speaker' (Preston Stanley).

The Infants Guardianship bill was now shelved although the Supply Bill did pass with further corridor caucusing on the Government's part. The election was delayed twelve months by which time changes to the electoral machinery were in place. With the removal of multi-seat electorates and machinations within her own party that saw her preselected for Bondi instead of Eastern Suburbs, Millicent Preston Stanley was not re-elected in September 1927. After opposing Lang's leadership in 1927, Cann lost Labor pre-selection and stood as an independent but was also not elected.

Conclusions

Prior to her entry into the Parliament Preston Stanley's campaigns to improve women's welfare and particularly reform of Infant Guardianship legislation had gained considerable momentum. She had used her press profile, her positions in various women's organisations, her networks and her oratorical skills to mobilise wide ranging community support. Inside a House not favourably disposed to women's aspirations, she found herself a lone movement entrepreneur deprived of co-optable support systems. Her arguments and oratory failed to persuade many in the Chamber perhaps because it seemed to challenge traditional patriarchal ideology for some and, to others it appeared to be an attempt to overthrow Justice Harvey's judgement. Moreover, although she was not lacking in knowledge of parliamentary processes, her position as an Opposition member limited her scope to make use of these processes while also advantaging the government in using counter-tactics to its own advantage. Importantly, the Lang Government was not committed to her agenda, the more so with its internal problems that had arisen during that session. The Hansard speeches suggest antagonism to Preston Stanley and misconceptions of her position as a representative not of women but of the Eastern Suburbs electorate. Her failure to mobilise sufficient support from her own (conservative) party left her vulnerable in the House. Ultimately, her ethics, at odds with those practised by some members, prevented her from taking advantage of an unethical course of action.

¹ Hansard 2 November 1926 697

² Hansard 2 November 1926 p.697

³ Hansard 26 August 1925 382

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- ⁴ Deborah Brennan 'Women in the Bear Pit' Refereed Paper presented to the Australasian Political Studies Association Conference, University of Newcastle, 25-27 September 2006 accessed ????
- ⁵ Tony Smith, 'The Sacrosanct seats of the lords of creation: Preston Stanley on the prospects for women MPs' 26 August 2005 Accessed 18 January 2012 <http://www.australianreview.net/digest/2005/08/smith2.html>
- ⁶ Marian Sawyer and Marian Simms *A Woman's Place: Women and Politics in Australia* New South Wales Allen and Unwin 1993 102-103
- ⁷ Elizabeth Faye Smith 'Millicent Preston Stanley: A Feminist in Politics' BA Hons Thesis University of Sydney, 1977, p.44-45
- ⁸ Anthony Russell Smith 'Gender in the Fifty-First New South Wales Parliament' PhD Thesis The University of Sydney 2002, 37
- ⁹ Bear pit references
- ¹⁰ Anthony Russell Smith 'Gender in the Fifty-First New South Wales Parliament' PhD Thesis The University of Sydney 2002, 69, 22.
- ¹¹ Hansard 26 August 1925 368
- ¹² Margaret Fitzherbert *Liberal Women: Federation to 1949* NSW Federation Press 2004 158
- ¹³ Hansard 16 September 1925, 806; Hansard 20 October 1925, 1651.
- ¹⁴ Outsider within citation needed The descriptor, 'She-Devil' is used in Act 3 of her play in reference to the fictional first woman member of the parliament. Whether Preston Stanley had heard the term used about herself or whether she simply imagined this as the conception some men had of her remains in the realm of speculation.
- ¹⁵ Gail Griffiths 'The Feminist Club of NSW, 1914-1970: A History of Feminist Politics in Decline' *Hecate* 14, 1, 1988 59
- ¹⁶ Without the sophisticated recording technology available today Hansard recorders in the 27th Parliament did not always capture the words of interjections, although the sense of them can be discerned from the response of the Member speaking at the time.
- ¹⁷ Anthony Russell Smith 'Gender in the Fifty-first New South Wales Parliament' PhD Thesis University of Sydney 2002 32-34
- ¹⁸ Hansard 2 November 1926, 696
- ¹⁹ Hansard 2 November 1926, 694
- ²⁰ Hansard 2 November 1926 695
- ²¹ Hansard 2 november 1926 696
- ²² Hansard 2 November 1926, ???
- ²³ Hansard 2 November 1926 695
- ²⁴ Elizabeth Smith 46-47
- ²⁵ *SMH* 27 August 1925,10;
- ²⁶ Hansard 29 November 1926 p?
- ²⁷ Hansard 29 November 1926 p?
- ²⁸ Hansard 29 November 1926, 1418
- ²⁹ Hansard 29 November 1926 ??
- ³⁰ Hansard 29 November 1926, 1423