

Australian Dictionary of Biography

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Martin, Sir James (1820–1886)

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Sir James Martin (1820-1886), politician and chief justice, was born on 14 May 1820 at Midleton, Cork, Ireland, eldest child of John Martin, castle steward, and his wife Mary, née Hennessey (1795-1876), who were married on 5 July 1819 at Glanmire, Cork. Offered employment by [Governor Brisbane](#), John sailed with his family in the *John Barry*, reached Sydney on 6 November 1821, and worked as a groom at Parramatta. Reputedly baptized at St Mary's by [J. J. Therry](#), James was educated at Parramatta at a dame's school and by others including D. Thurston and [Rev. W. Walker](#). His parents made sacrifices to send him to [W. T. Cape's](#) school in 1833-36, where he brilliantly fulfilled his juvenile promise. He had contributed to newspapers including the *Australian* on which he became a journalist; influenced by its editor [G. R. Nichols](#), Martin became firmly committed to the aspirations of the native-born. In 1838 as 'Hirundo' he wrote a bitter article on the ignorance of the Molesworth committee on convict transportation, and published *The Australian Sketch Book*, fifteen essays full of youthful self-consciousness but exhibiting intense patriotic feelings. With [Henry Parkes](#) he wrote for [W. A. Duncan's](#) *Australasian Chronicle* and in 1839 he was acting editor of the *Australian*.

By 1840 Martin had taken a keen interest and some part in the stirring constitutional and social issues confronting New South Wales, but lively and partisan debate had exposed in him a polemical and snobbish streak reflecting awareness of his humble background and intellectual potential. Thrustful and capable, he was determined to prove that he had the qualities necessary for social and material success. Law attracted him as a career that would give his ambitions and talents full play and produce commensurate rewards irrespective of his origins. At 20 he was articled to Nichols and continued to speak and write, sometimes as 'Junius', on the need for representative government. In 1843, attracted by the conservative native-born strand, he was on the committee of [W. C. Wentworth](#) and [W. Bland](#) at the colony's first elections. Sharpening his vision of a new type of colonial upper class based on merit and patriotism rather than family eminence, he campaigned resentfully against William Bowman, a low-brow exclusive candidate for Cumberland Boroughs, but Martin could envisage no useful role for ex-convicts. When admitted a solicitor on 10 May 1845 he was probably the outstanding young member of the native-born group.

Influenced by [Robert Lowe's](#) lordly liberalism Martin wrote for the *Atlas* in 1844 and from May 1845 was its manager and editor for two years. He intensified the newspaper's violent attacks on [Governor Gipps](#) land policy and began to censure [Governor Fitzroy's](#) private life. Martin's developing hauteur was reinforced by his increasing income as one of the most successful practitioners in the police courts but his drive remained unabated for educational improvement and further constitutional reform. Meanwhile his enemies diversified, repelled by his rare combination of lowly birth, pugnacity, colonial patriotism, ability and growing wealth. He added to his opponents by strong support for fiscal protection in 1848 and backed by Wentworth and [Robert Fitzgerald](#), won the Legislative Council seat of Cook and Westmoreland, but was unseated in June 1849 because he lacked the necessary property qualification. Next month he regained the seat and was one of the most active councillors, seeking reform of the city corporation, helping to found the university and revealing his favour for renewed transportation.

Martin's family was strongly Catholic but his own denominational faith weakened as he matured. Catholicism was the religion of the Irish and their offspring, a large proportion of the colonial lower orders, but it jarred with Martin's dream of personal advancement, though he retained warm family links. Lowe influenced Martin's religious doubts and they were aggravated by an attack on him in 1850 by [Fr J. McEncroe](#) as 'a living example of the effects of an education not based upon religion'. Next year many Catholics unsuccessfully supported A. Longmore against him in the contest for Cook and Westmoreland. On 20 January 1853 at St Peter's Anglican Church, Cook's River, he married Isabella, sister of [W. A. Long](#) and daughter of a wealthy ex-convict wine and spirits merchant. He did not formally join the Anglican Church but remained convinced of the strong need for a society based on Christian principles. On this ground in 1854 he disapproved payment to Jewish ministers though he was always tolerant.

The discovery of gold in February 1851 accelerated forces shaping constitutional change. Martin actively supported legislation to control the goldfields and sponsored the establishment of a mint. In April he was a member of Wentworth's select committee to prepare 'a Declaration and Remonstrance' against British constitutional proposals and in November he helped to prepare a petition to the Queen and parliament. The pressure persuaded the British government to allow the colonists to draw up their own constitution and in 1852 Martin was an active member of the committee. In the transitions of the early 1850s his conservatism was



James Martin, by *Henry Samuel Sadd*, 1880s

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modifying but he opposed manhood suffrage and sought an upper house composed 'of representatives who are large landed proprietors'. In a notable council speech in August 1853 he effectively defended the draft constitution and revealed that Edmund Burke remained his chief inspiration but Disraeli rather than Wentworth was looming as his political exemplar. As amended, the constitution still displeased the liberals with its restricted franchise and nominated second chamber. Martin did not agree wholeheartedly with them but perceived that the old colonial conservatism, based on a land-holding ascendancy, had to be curbed. His leading role in constitution-making and his legislative record had brought him to the forefront of politics; he was asked to run for Sydney at the first responsible government elections in April 1856 but he won his old seat.

Martin had hoped in vain to be the first premier of New South Wales but in August became attorney-general in the second ministry led by [C. Cowper](#). This honour soon showed that Martin's rise through merit had aroused ire and envy in politicians and lawyers, and wrecked his hopes of joining the old upper class. He was not a barrister and his appointment was opposed strongly in the assembly and by the Bar. Embittered by the political opposition, he accepted the legal objections and was admitted to the Bar on 11 September and made Q.C. in 1857; but the government fell. In October 1856 [P. G. King](#) wrote to [James Macarthur](#) 'I am much pleased to see the "Cowper cum Martin" ministry upset—what a vulgar fellow the latter is. I should think no decent person would ever cross his threshold again or send their cards. I was amused at the use he tried to make [in the assembly] of your having once put your feet under his mahogany'. While advancing in the new form of Sydney society, Martin had become secretary of the Sydney College committee in 1848 and the Sydney Choral Society in 1854; in 1855 he was appointed to the National Board of Education and in 1858-59 was on the committee of the Sydney Club. In 1853 he bought Clarens on a site overlooking Sydney Harbour in Wylde Street, Potts Point, and as his income and family increased he improved its grounds to make it one of the most imposing mansions in Sydney. A younger group of able native-born, notably [W. B. Dalley](#), disagreed largely with his politics but recognized his patriotic achievements and mounting legal eminence.

By 1860 Martin was one of the great colonists, but he had difficulty in coming to terms with the liberal ascendancy in politics in 1858-60 although he was Cowper's attorney-general again in 1857-58. He opposed manhood suffrage in 1858, land reform in 1861 and abolition of grants to religion in 1862; his protectionist views remained unpopular. In early 1863 his social liberalism dominated his defence of three members of [Frank Gardiner's](#) bushranging gang and especially his attempt with Dalley to save one from the gallows. By then a new cluster of political problems had emerged, related to economic management, education reform, relations with Victoria over the Riverina and the menace of bushranging. The liberals under Cowper and [John Robertson](#) had few answers, but Martin had adjusted to the situation and as attorney-general formed his first ministry on 16 October. With an uncertain following and a weak cabinet Martin's strong policy included *ad valorem* duties and border tariffs, but he could not carry it and lost the 1864-65 general election on the fiscal issue.

Cowper's new government, formed partly from liberal remnants, had to implement Martin's financial policy but lasted less than a year. Parkes had perceived Martin's new political stature and sounded him out on an alliance. Martin had written for Parkes's *Empire* in 1851 but had been temperamentally and politically opposed to him for the rest of the 1850s; on 8 January 1866 he told him 'There is no further occasion ... to refer to our past misunderstandings'. On 22 January they formed the strongest ministry to that time, with Martin attorney-general and premier. His control complemented Parkes's social flair in the important 1866 Public Schools Act and in measures to help neglected children. They reformed the Municipalities Act, reached an agreement with Victoria on the border duties and pacified the Riverina. By early 1868 the government's resolution had flagged and was shaken on 12 March by the attempted assassination of the [Duke of Edinburgh](#) by [H. J. O'Farrell](#). This incident shocked Martin's sense of decorum and social responsibility and he forced the treason felony bill through parliament in one day. Looking back in 1870 on the episode Martin rightly reminded Parkes that at an agitated and possibly perilous time they had done their utmost 'to preserve the public peace and act impartially to all parties'. But the ministry had lost its cohesion and Parkes's withdrawal on 17 September 1868 was followed by Martin's resignation on 26 October. He was knighted next year.

In 1861 Martin had been elected as a fellow of the University of Sydney and was on the committee of the Victoria Club; in 1864-65 he was a committeeman of the Hyde Park Improvement Society and in 1871 vice-president of the Civil Service Club. He had taken some interest in business and by 1870 held three directorships. In 1872 he was appointed to the Commission of Defence from foreign aggression. An examiner of the university's faculty of law he was at the top of his profession. In 1856-68 he had reputedly spent £20,000 on beautifying Clarens, including the erection in its grounds of a replica of the Choragic Monument of Lysicrates (now in the Sydney Botanical Gardens). But he remained in politics and on 16 December 1870 returned as premier with a cabinet including one of his most durable opponents, Robertson, as colonial secretary. This liaison marked both the dissolution of the post-1855 liberal combinations and the end of Martin's attempt to provide an effective conservative political strand. He rejected [Gavan Duffy's](#) proposals for federation, but his government was moribund and fell in 1872 when no agreement could be reached with Victoria on renewing the scheme to obviate border duties.

As early as the mid-1860s Martin had reflected on succeeding [Sir Alfred Stephen](#) as chief justice and in 1872 he sat with Stephen on the Law Reform Commission. Parkes's proposal in 1873 to promote [Edward Butler](#) aroused a political and sectarian storm that did not obscure Martin's pre-eminent qualifications for the position and his appointment in November was not only the greatest triumph of the native-born in the nineteenth century but also realized his own personal dream of status through talent and hard work. With the help of Dalley, who had become his brother-in-law in 1872, Martin consolidated his position as a leader of Sydney society, stressing intellectual and artistic leadership and brilliant conversation with fine food and wine. He built a grand holiday house, Numantia, in the Blue Mountains in 1877 and was followed there by other notables.

In 1872 Parkes noted that Martin 'loved power for power's sake', and wrote perceptively that 'There is no man in these Australian colonies of a more imperious nature than Sir James Martin', and that while he was neither strong-willed nor vindictive he was protected from himself by 'the sanctities of the constitutional freedom under which he lives and his professional respect for the principles of law'. These qualities conditioned paradoxical elements in Martin's personality: an egalitarianism with snobbish overtones; a respect for the British lifestyle tempered by strong Australian patriotism that concentrated on New South Wales, conditioned affection and respect for the bushland and produced antipathy to those colonists who put their homeland before their adopted country or who did not acknowledge the primacy of the mother colony. As chief justice he detected in [Governor Robinson](#) some of the corrupting defects of power he had discovered earlier in [Gipps](#) and [Fitzroy](#), and in 1874 protested to Parkes when he was not made administrator when the governor was in Fiji. Next year his resentment led to an explosive exchange of letters with Robinson in the *Sydney Morning Herald*: the correspondence was ostensibly about the respective roles of governor and chief justice but reflected Robinson's easy British assumption of superiority and tutelage, and Martin's Australian rejection of the trappings of imperial patronage.

By the middle 1870s Lady Martin had borne eight sons and seven daughters. Wealthy in her own right she grew dissatisfied with Martin's constant circuit tours, his obsession with Numantia and his insensitive response to her complaints about the inadequacies of Clarens for a large family. Fearful of typhoid fever she also developed a distaste for the nauseous and toxic smells emanating from Rushcutters Bay that often swept Clarens with the east winds. Their domestic misery was increased in 1880-81 by the death of two children and of her sister, Dalley's wife, and by Martin's ill health. In 1882 Lady Martin moved to Vacluse. Dalley sided with her: 'Although Clarens is one of the loveliest of residences', he wrote to Martin, 'and your genius has made it a dream of beauty I am entirely of her opinion that it is neither large enough for the family nor for your station with its necessary social liabilities'. But there was no reconciliation.

Martin proved a notable chief justice. On his appointment he acknowledged that previously he may have been offensive to many colonists but begged them 'kindly and generously to forget'. His profound professionalism facilitated his efficient exercise of the duties of the office and his acceptance of its responsibilities. [J. A.](#)

Froude saw Martin in 1885 as 'a stout, round-faced, remarkable old man, with a fine classical training', who, 'if [he] had been Chief Justice of England ... would have passed as among the most distinguished occupants of that high position'. A sordid murder case in 1884 reflected his mastery when he reminded the jury that they and not newspapers had to decide the verdict. Several times he pointed out that his salary of £2600 was insufficient and in 1881 told Parkes that at least seven barristers received more. He maintained his right to speak on important issues and in 1878 at a public meeting congratulated Disraeli on the Berlin settlement. In 1885 he told the Christian Evidence Society that colonial laws were based on Christianity and he was happy to join 'those who wish again to call to mind the proofs of its truth'. Archbishop Vaughan wrote him a warm letter in 1881 but he did not return to the Catholic Church. When he died on 4 November 1886 of heart disease he was buried at St Jude's, Randwick, by Dr A. Barry, Anglican primate of Australia. His death marked the inevitable failure of the first generation of the New South Wales native-born to generate an Australian patriotism. He was survived by his wife, six sons and six daughters. In 1909 Lady Martin died and his remains were transferred to her grave in Waverley cemetery. Martin Place in Sydney is named after him, Lady Martin's Beach at Point Piper after her.

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