

## **How W.L. Baillieu Recovered from his Secret Composition of 1892**

“Oh what a tangled web we weave / when first we practice to deceive.” Scott

P.D. Gardner

### **Introduction**

W.L. Baillieu was a partner in Munro & Baillieu - the foremost auctioneers in the Melbourne land boom of the 1880s.<sup>1</sup> In 1892 he went bankrupt, along with his partner and partnership, and took what has become known as a ‘secret composition’ - in effect a private bankruptcy. Baillieu recovered from his secret composition and eventually became one of the most important industrial and mining magnates in Australia. The standard version of Baillieu’s recovery from his secret composition is as follows: ‘More remarkable than W.L.’s involvement in the land boom was his exceptionally expert recovery from the depression....’<sup>2</sup> Baillieu biographer Peter Yule recently noted: “the greatest mystery of the Baillieu family fortune is how WL built a large business empire and substantial family fortune during the deepest and most protracted recession Melbourne has ever experienced... Yet by 1900 he had rebuilt his fortune...”<sup>3</sup> A note from the generally far more critical historian Michael Cannon is similar: “Then after the disasters, came the most extraordinary part of the Baillieu story. W.L. just carried on as though nothing had happened. He was protected from further action on his past debts by his creditors’ somewhat hasty acceptance of 6d in the £ settlement.”<sup>4</sup>

However this recovery was neither easy, nor rapid but took from approximately August 1892 to the end of 1896.<sup>5</sup> At times this recovery was precarious as indicated by the frequent calls of his bank manager during this period to discuss his overdraft or requesting more security be provided for it.<sup>6</sup> As well during this period he took on extra family burdens. By 1893 he had more or less assumed control of his father-in-law’s brewing business and by 1895 was also paying the interest on the mortgage of the family run and owned Ozone hotel in Queenscliff. In 1896 mortgagor G.W. Charter’s agents UMAC foreclosed on the Ozone Hotel but left it to be managed and run by the Baillieu family. By the end of 1896 Baillieu was the director of 4 or 5 companies, held other managerial positions such as the legal manager of the North Duke GMCo, was the principal of W.L. Baillieu & Co and Edward Latham & Son and about to embark on a highly remunerative trip to London. By this time it is fair to say that he had recovered from his secret composition of 1892 and the disastrous effects of the collapse of the land boom. How was this recovery achieved? Generally this was by equal amounts of hard work and fraud, combined with more than his fair share of luck and the incalculable benefits of the circumstances and general secrecy surrounding the secret compositions, correctly entitled ‘Composition by Arrangement’. What follows is an examination in some detail of how this recovery was achieved.

### **Fraudulent Matters of the Secret Composition**

I have written elsewhere of some of the lesser known fraudulent aspects of the secret compositions.<sup>7</sup> The private meetings of the compositions were carefully arranged meetings of friends and business acquaintances. Perhaps the most blatant of the frauds was the failure of the creditor meetings to allocate all the liquid funds of the ‘compote’.<sup>8</sup> The irregular arithmetic of the compositions allowed Baillieu to retain an unknown amount but as much as £500 after his own composition and that of his partnership. Other fraudulent aspects included failing to declare funds due (Herald & Sportsman);

probably maintaining property and shares through the secret composition (Herald again, mining shares probably including the Grand Duke & North Duke); using dummies to avoid legal amounts due on part paid shares (Camberwell Estate); failing to declare amounts owed to the Federal Bank, [see Addendum] which were not all written off in the manner that Cannon claimed<sup>9</sup> and a number of other aspects outlined by Michael Cannon in *The Land Boomers*.

### **The Secrecy of the Compositions**

As the common name implies the compositions were very secret and, other than creditors who were given their chance to prove the 'compote's' debt to them - and most of that 'friendly' debt - very little was known about their proceedings at all. This was opposed to the very public and often prolonged procedures of a normal bankruptcy including a close examination of the bankrupt's finances by the courts. As far as the general public were aware Baillieu was solvent and still trading. Cannon noted that 'only a handful of people knew, or cared, about his secret insolvency' and to 'the public, hardly any hint of Baillieu's personal affairs was ever given.'<sup>10</sup> The advantages of this secrecy were substantial. Baillieu was able to resume trading almost immediately after the demise of his partnership - the amount of time the business was closed is not known but was probably no more than a week - and to the general public the only thing they may have noted was a change in the business name. Without the stigma of bankruptcy Baillieu was able to maintain, for the most part, a strong network of friends and business, legal and political connections (see below). Without the secrecy many of these connections would have been lost. There is no doubt that many of them were later used to advantage. He also maintained his position in a number of companies from which adverse publicity may have forced him to resign. They include his role as liquidator of the Chatsworth Estate Co which commenced on 2 May 1892 and for which the remuneration was £500<sup>11</sup> and his position as legal manager of the North Duke GCo.<sup>12</sup>

### **The Aftermath - Fraudulent Matters Post Secret Composition**

The main fraudulent action post secret composition was the recovery of property secreted away prior to the composition. Again I have written of this elsewhere and almost certainly the list includes the following companies: 1. The Herald Newspaper. Yule maintains that the Herald shares were sold and that the old Herald shareholders only held 500 City Newspaper shares and money owing to them on the sale of the Herald. In fact only the Herald assets were sold and Herald became a shell company as a vehicle to receive money for the sale of its assets.<sup>13</sup> The value of retaining this company became evident when as Yule notes it began issuing 10% dividends from 1896. Baillieu was a director from 1894.<sup>14</sup> 2. The Grand Duke and the North Duke Gold Mining Cos and possibly others including either or both the Bay Excursion Co and the Outtrim Coal Co - the latter only formed in 1892. It is not definite that all these companies were fraudulently maintained through the composition - but Baillieu was definitely anywhere from an ordinary shareholder up to a substantial shareholder of all these companies both before and after his composition. (see also Business Jobs & deals below) How the shares were fraudulently maintained, and whether they actually were, is in dispute.<sup>15</sup> They may have been held in a little known company called Stock and Share, another almost identical company called Agency and Co, held by W.J. Malpas & E.L. Baillieu share brokers, or by another member of his family. As Yule points out there is so far no definite proof of companies being held through Baillieu's secret compositions. Although the creation of the paper companies such as Stock and Share seems to indicate intent in this matter.<sup>16</sup>

There is also the question of real estate held through the composition and thought by Cannon to have been held by the Melbourne Joint Stock Bank. Certainly almost all of the properties held by the partners and their partnership were either mortgaged or encumbered by a lien and therefore would have eventually reverted back to their original titleholders. A very small proportion of the properties may possibly have been held on clear title or with a small amount to be paid on the mortgages and therefore worth keeping. A further - and much larger - number of titles were probably either mortgaged to other companies or to individuals who were bankrupted or alternately were involved in an extremely complicated series of transactions which made the legal titleholder of the property unclear. For instance a large number of the land transactions by Munro & Baillieu appear to have been mortgaged to Benjamin Fink who had his own Composition by Arrangement two months after that of Munro & Baillieu.<sup>17</sup> Possibly as many as one in four titles may have been included in these exceptions to the rule. But again so far no property has been traced back to the Melbourne Joint Stock Bank. Generally it can be concluded on this matter that it is complicated and unclear.

Another aspect post composition - but not necessarily fraudulent - involves the messiness and loose ends such a process involved. The fact was that a number of companies and creditors either did not recognise the secret compositions or were unaware of them and pursued their debt anyway. It would appear that most of these cases were cleared when Baillieu eventually offered token payments for these debts<sup>18</sup> and dealt with other claims such as calls on shares.<sup>19</sup> As late as 1896 agents for W.B. Charters notified 'Munro & Baillieu' - defunct for nearly 4 years - that they were foreclosing on the Ozone Hotel mortgage. I have written on the matter of the Edgarleigh Co elsewhere.<sup>20</sup> Likewise some material in the Baillieu Allard papers indicates that not all the Federal Bank loans to Baillieu were written off as Cannon claimed and that he later made arrangements with the court appointed liquidator of this bank to transfer shares and make a final payment in settlement of their claims against him.<sup>21</sup> [see Addendum]

### **Munro & Baillieu becomes W.L. Baillieu & Co 243 Collins St**

Immediately after his secret composition and the demise of his partnership Baillieu continued to work from the Munro and Baillieu office at 243 Collins St as W.L. Baillieu & Co. If nothing else the name change to the premises implied that W.L. Baillieu & Co was merely a successor to the old partnership and continued operating essentially the same business. It is not known how long the offices were closed but it is possible that there was no obvious break in the business operations and that the name change in the business - for that is all it was - took place over a weekend. At worst 243 Collins St was probably only closed for a week.<sup>22</sup> Thus Baillieu almost certainly continued with the same skeleton staff, the same customer lists, the same records, work and projects of Munro and Baillieu. The work of the new business included the same as the previous one - auctioneers and real estate agents, and other ancillary financial, share and insurance activities. The take-over by Baillieu of the remnants of the Munro & Baillieu business was the result of an arrangement by Baillieu with his former partner Donald Munro whereby he was to be paid £400 in 8 equal promissory notes of £50. This arrangement was probably illegal and a number of the promissory notes that Baillieu gave Munro he later was unable or unwilling to meet.<sup>23</sup> Midway through 1894 the business moved to 375 Collins St where it remained for many years.

### **The Voluntary Liquidation Act**

Michael Cannon noted this 'extraordinary piece of legislation' was: "rushed through both houses of Parliament on 3 December 1891, with only one dissenting voice. The

Act in effect abolished the legal right of minority depositors in banks, building societies and other companies to send a business into compulsory liquidation if it could not pay its debts on demand. It was the nearest thing to legalized repudiation..."<sup>24</sup> Trevor Sykes added the proviso that: "the Voluntary Liquidation Act did not stop financial institutions from failing. Its effect was to make it harder for creditors to wrest control of a failed institution's affairs from the hands of the men who had wrecked it."<sup>25</sup> Of all of the companies liquidated by W.L. Baillieu and his family and friends almost all of them fit into this category - companies controlled by them, or by their friends and associates or connected to them in some way. It is of note that these friendly liquidators were generally appointed with the perception that they would ignore any suspect dealings of the company or at least treat any suspicious anomalies in the company's previous dealings, and thus those of the former directors, favourably. Yule perhaps inadvertently lists one of the probably numerous examples of the misuse of the liquidator's role with A.S. Baillieu buying the debt in share calls of his brother E.L. Baillieu of £2497 in the John Turner Property Co for £20 when he was also acting as the liquidator of this company - in effect buying the debt from himself at the very nominal rate of two pence in the £.<sup>26</sup> The way the liquidation of most of the larger companies worked out in practice was that the small to medium shareholders were forced to contribute to uncalled capital whilst the large shareholders were either bankrupt and contributed a pittance in the pound or came to an private arrangement with the liquidator to cover their debt - also usually a pittance.<sup>27</sup>

### **Liquidator Extraordinaire**

Baillieu became the liquidator of various associated companies after his secret composition. It has been noted that he was already liquidator of Chatsworth at a remuneration of £500 at the time of his secret composition.<sup>28</sup> In 1893 he became secretary of New Chatsworth Estate Co at £100 pa and then, the following year, liquidator of this company. Besides the Chatsworth Estate Co and the New Chatsworth Estate Co, the companies he liquidated included the Australian City & Suburban Investment & Banking Co, (under the supervision of the Supreme Court) Henry George, City Newspaper Co, Victoria Newspapers Co, Spottiswoode Estate, Bourke Street Freehold and Investment, Melbourne Cyclorama Co and the New Dundas Tramway Co. As well he administered personal insolvencies as trustee including the Whittingham brothers, J. Woolcott, E.C. Elliott, R.L. Balding and others. As company liquidator he earned his salary either by a specified straight payment per annum or by receiving a specific percentage per annum of the earnings of the concern being liquidated. An example of the latter form of payment was the New Chatsworth Estate Co. Ltd where Baillieu as liquidator earned 5% of the annual total income. The remuneration for the liquidation of Australian City & Suburban Investment & Banking Co was £500 p.a.<sup>29</sup> This liquidation took about 3 years providing W.L. Baillieu with a regular, substantial and much needed income in the darkest days of the depression. As liquidator he also received various other forms of payment including commissions on rent collected and land sold, office rent, and clerical, legal, printing, and advertising expenses. Baillieu no doubt directed much of the real estate business his own way. He also appears to have carried out his task as liquidator methodically and thoroughly. There was certainly no favouritism to some of his former associates like the Wiseman Bros. during the liquidation of the New Chatsworth Estate whilst there may have been to others.<sup>30</sup> As well as this A.S. Baillieu assumed liquidation of the Chatsworth and New Chatsworth Estate Cos from his brother in 1897 and he was also the liquidator of the Heart of Preston, Melbourne Joint Stock Bank, Stock and Share Pty Ltd., John Turner Property Co and the Herald & Sportsman. Also many of Baillieu's close associates including Thos. Rennell, R. Danby, John Turner, J.M. Howden, A. Hall and Salis Fisher were

liquidators of the Bourke St Freehold and Investment Co., Brunswick Investment Co, Melbourne Finance Trust & Banking Co, Camberwell Estate Co, Central Preston Land Co, Northern Tramways, Warrington Heights and Edgarleigh Estate. The liquidators of other closely associated companies are not known as the records are missing from the Public Records Office of Victoria and the list above is by no means exhaustive. Baillieu was associated with all of these land boom companies in some way and most of them were Fink/ Baillieu companies. It is assumed the liquidations administered by the Baillieu brothers, and possibly a number of the others, were done from the office of W.L. Baillieu & Co. Some of these company liquidations must have been quite remunerative, especially the longer running ones, notably the Chatsworth and New Chatsworth Estate Cos which ran from 1892 to 1907, and the Australian City & Suburban Investment & Banking Co which went at least until 1896.<sup>31</sup> Also the opportunities for insider trading and special 'sweetheart' deals were probably abundant - although the only example I have so far found is the sale of Henry George land by liquidator Baillieu to Benjamin Fink's wife Catherine.<sup>32</sup> One assumes that this represents the 'tip of the iceberg' and that there were numerous similar deals done between Baillieu and Catherine Fink, amongst many others.

### **'Hard Yakka'**

As noted above over the next few years Baillieu gradually took over the management of the business of his father-in-law and dealing with the problems of other family business - principally the Ozone hotel in Queenscliff. As well the messiness of the compositions had to be dealt with, as a number of companies claimed debt that should have been presented during the compositions, and there were other unrelated debts and company calls to himself and other members of the family.<sup>33</sup> Yule noted that Baillieu was a tardy payer of debt and seldom paid until he was forced to.<sup>34</sup> Yule also noted that "in addition to the usual real estate agent's work... W.L. Baillieu & Co acted as mining agents, mortgage brokers, share brokers, trustees of insolvent estates and dealers in everything from bank deposit receipts to patent rights."<sup>35</sup> He also noted that the main income of the business during the depths of the depression in 1893 was rent collecting when they were collecting £700 per month, including rents for properties now held by the Federal Bank in liquidation.<sup>36</sup> Cannon noted one of the first auctions that W.L. Baillieu carried out after his composition was for the contents of 'Quisisana' the Toorak mansion of pastoralist of George Fairbairn.<sup>37</sup> The staff of the business and all its costs were drastically reduced and it remained basically a family business with a few extra faithful employees. W.L. Baillieu & Co were the insurance agents for a number of related companies, including the Herald, and commissions were always charged on deals with closely related companies, as when the Southern Brewery was purchased by Edward Latham & Son.<sup>38</sup> Yule also noted the interest of W.L. Baillieu in the process of subletting and the move from 243 Collins to 375 was an exercise in this process whereby W.L. Baillieu & Co took up the main offices and other offices were let to closely related companies, agents and accountants including that of long time associate P.P. Cook.<sup>39</sup> This procedure culminated in the formation of the Collins House group many years later.

### **Business, Jobs and Deals**

Baillieu, closely connected with the Herald since 1889, became a director of the newly formed Herald and Standard in 1894. He was also a director of the Bay Excursion Co about this time, and became a director of Outtrim Howitt and British Consolidated Coal Co in 1896. None of the directors' fees of these companies at this time is known but they were probably in the vicinity of £50 to £100 pa each. Also Baillieu traded heavily in the shares in each of these companies and probably had extra perks or employment in

some of them as well. For example in the latter company Baillieu also acted as auctioneer for land sales in the Outtrim township both prior to and after his appointment as director. Yule has revealed that Baillieu was the organiser of the amalgamation and formation of the Outtrim, Howitt and British Coal Mining Co in 1894 for which he received in March 1895 the princely sum of £4000.<sup>40</sup> This presumably included surveying, auctioneering and other services. Other directorships were held prior to 1896 included the Coalville Colliery Co and the Lyell and Dundas Silver Mining Co - positions which Baillieu resigned from at the end of 1896. He reportedly sold out his holding in the latter company at a substantial profit.<sup>41</sup> He was a director of the Melbourne Cyclorama Co until its voluntary liquidation in 1894. He was the secretary of the short lived New Chatsworth Estate Co on £100 p.a. before it went into liquidation and then he became its liquidator. He was the legal manager of the North Duke Gold Mining Co from 1892 after previously being a director in this company and may have had similar positions in associated companies. It is interesting to note that Baillieu held his position of liquidator of the Chatsworth Estate through his secret composition and may have done likewise whilst either as director or legal manager of the North Duke.<sup>42</sup> All this meant that Baillieu and his firm had a regular and substantial income in the depths of the 1890s depression the amounts of which are roughly estimated below. The stockbroking firm of W.J. Malpas and E.L. Baillieu was a closely related entity, which eventually became EL & C. Baillieu following the death of Malpas in 1898. There was also possibly a deal of some sort with P.K. McCaughan, owner of the Rialto in Collins Street. McCaughan was involved in a number of complicated deals with Edward Latham and was a neighbour and later possibly his Studley Park Road landlord. On 5.12.1894 solicitors Attenborough, Nunn & Smythe handed over the title of the Rialto to Baillieu - presumably for sale on commission.<sup>43</sup> The amount of share dealing by Baillieu in 1896 in various companies in the Mt Lyell Rush is unknown but was presumably large and probably spectacular profits were made.

### **Edward Latham & Son**

This company was formed on 23.12.1892 when the ink was barely dry on the secret compositions of both Baillieu and father-in-law Edward Latham to purchase the Southern Brewery Richmond.<sup>44</sup> The original promoters with 1 share each were Baillieu and the Latham family - Edward Latham, his wife Bertha, his son Thomas and his daughter Bertha Baillieu. The source of the initial capital for the company is not known but could have come from various sources in the Latham family as well as from W.L. Baillieu.<sup>45</sup> Quite likely it was partially funded by some of the undistributed funds from both Baillieu's and Latham's secret compositions. To provide an injection of capital Chicago investor and Baillieu associate Isaac Reid became the sole outside shareholder in the company with a purchase of 1000 shares which may have been purchased at a discounted rate in these tough times.<sup>46</sup> The company was at least initially successful with Yule reporting a profit of £719 in the first six months of operations. Yule also noted that having the ANZ bank as its banker was fortuitous as it was one of the few banks not to close its doors during the 1893 banking crash.<sup>47</sup> In 1894 both Bertha Latham and Thomas Latham died<sup>48</sup> and Edward appears to have lost interest in the business which, from this juncture, was run solely by the Baillieu brothers. By 1897 the shareholding of the company was as follows: Edward Latham 1, T.R. Latham (dec.) 1, Bertha Baillieu 6198, Isaac Reid 1000, W.L. Baillieu 500, A.S. Baillieu 100, E.L. Baillieu 100, Elizabeth Mary Baillieu 100 and it would seem that Bertha Baillieu had inherited the bulk of the shares previously held by her family.<sup>49</sup> The running of this business was later taken over by Mr. Wood and it was eventually sold to Carlton Brewery.

### **A Fair Bit of Luck**

Had the secret compositions of the partnership and of Munro and Baillieu been made public things may have been more difficult. There were a number of reasons why they were not - amongst others that in the scheme of things both Munro and Baillieu without their Federal Bank debt counted were relatively 'small fish'. Their listed financial deficiencies in their compositions were £55,627 for the partnership, £26,203 for Munro and £38,432 for Baillieu. Each of these compositions paid 6d in the £. The very large amounts owed to the Federal Bank by both Munro and Baillieu and related parties - some of which were possibly written off by that Institution [see Addendum] - did not become public until late 1893. By contrast Benjamin Fink was not so lucky. His deficiency was listed by Cannon as £1,019,275 and he eventually paid 1/2d in the £ on about a third of these debts.<sup>50</sup> News of Fink's composition was raised a number of times in the newspaper *Table Talk* and by virtue of his previous prominence as a businessman and former member of parliament, and the size of his debt, he was afterwards forced to keep a very low profile.<sup>51</sup> Much of the 'dirt' about the secret compositions was being published in *Table Talk*, a minor Melbourne publication, in 1893 and 1894. At the time *Table Talk* was publishing some of the more spectacular secret compositions and the more outrageous loans and dealings of the Federal Bank the mainstream media was preoccupied by court cases and parliamentary division over the business scandals of the Davies group - notably the collapse of the Mercantile Bank of Australia. As far as I can ascertain at no time was Baillieu mentioned in relation to the secret compositions and his name was not mentioned at all until revelations of the 'Clan Munro' milking of the Federal Bank were first published in December 1893.<sup>52</sup> By contrast the Mercantile Bank scandal was in and out of the courts for most of 1893 and 1894 and included cabinet infighting and the resignation and re-election of Attorney General Isaac Isaacs over whether any of the directors of these Davies companies should be prosecuted. These events dominated the news. So also did the spectacular bank failures and closures that occurred through April and May of 1893 that were followed by the piecemeal reconstruction and reopening of most of them some months later. Bad publicity at this time would have certainly adversely affected the business of W.L. Baillieu & Co and made some of his lucrative appointments and other deals unlikely. As a bonus the Grand Duke GCo was issuing dividends from 1892 and the North Duke followed in 1894. Possibly some of the other property - presumably retained illegally - also issued dividends during this period.

### **Connections Far and Wide**

Baillieu established a large number and wide range of connections during the 1880s and early 90s, involving various political, legal, business, media and social networks. Yule noted that by 1900 he "had again developed networks of influence and support at the top levels of business and politics."<sup>53</sup> However most of the early connections he made were maintained beyond the secret composition though there were some exceptions to this. The core of these connections was family, notably his younger brothers E.L., C. and A.S. Baillieu whose skills and qualifications complimented his own. The closest connections outside the family were with Melbourne brewer and philanthropist Edward Latham who later became a family member, and Melbourne furniture tycoon, mining investor and landboomer, Benjamin Fink. Baillieu's early career up to his joining the Donald Munro partnership was heavily influenced by both Latham and Fink and Fink's younger brothers Wolf and Theodore became his closest friends and business partners. From the formation of Munro and Baillieu his connections with Melbourne's business, financial, legal, political and social world expanded exponentially. As well as various important individuals Baillieu could, and probably did, make use of the members of informal groups such as the Apostles which met through the 1880s until about 1892<sup>54</sup>

and the Scotts Hotel group which met from 1892 to about 1900<sup>55</sup>, and the networks of large established businesses like the Munro and Davies groups of companies both of which failed and the William McCulloch group which did not.<sup>56</sup> A brief selection of individuals with whom Baillieu was acquainted, or had dealings with, both before and after his composition included publishers David Syme and J.F. McCarron, bankers Thomas Loader (City of Melbourne Bank) and Alfred Priestley (Federal Bank), politicians Frank Stuart, Alfred Outtrim and many others, lawyers Alfred Deakin and Montague Cohen, local government members Samuel Gillot and A. Snowden MLC and numerous businessmen including William McCulloch MLC, F.B. Clapp, John McWhae and neighbour P.K. McCaughan. The benefits of these networks and contacts included the supply of often secret or private information, their influence on business deals, and the ability to generate deals and income even in dire times. By 1896 Baillieu and his brothers virtually had a connection - direct or indirect - with anyone of importance in the Melbourne business world. One example of the use of their political connections was when, in 1897, they required a change to company law to enable companies to establish branch offices in London to facilitate the sale of shares. Following discussions with long time associate Alfred Outtrim MLA the laws were amended within 2 weeks - a blatant example of corruption.<sup>57</sup>

### **An Estimate of Profits**

The following are conservative estimates of net profits of W.L. Baillieu in the four years following his secret compositions.<sup>58</sup> There is no accounting or attempt to estimate the funds going to his brothers, and other sources of income such as the clerical assistance, rent, legal fees, and other extra remuneration associated with the liquidations most of which would be included in the accounts of W.L. Baillieu & Co. Further no attempt has been made to calculate income from Baillieu's widespread and voluminous share dealings as information about this aspect of his business career is sparse. The figures below represent net profits but most of this money was probably reinvested in property, share dealings and mining ventures.

From July - following his secret composition and the collapse of Munro & Baillieu - to the end of 1892 was probably Baillieu's leanest time. Depending on how much in liquid funds the Baillieus actually retrieved from the secret compositions of W.L. Baillieu and Munro and Baillieu they could have had up to £500, but I will assume the more conservative amount of £300. £50 of this would have gone to Donald Munro on the first of his promissory notes. As well, scarce resources were spent in December on the formation of Edward Latham and Son and the purchase of the Southern Brewery Richmond. To counter this about £100 was earned in wages as legal manager of the North Duke and liquidator of the Chatsworth Estate. With the odd director's fee and dividends still coming in it is estimated that W.L. Baillieu's income for this period was probably positive.

Surprisingly in 1893 with the bank crashes and the depths of the depression things began to improve for Baillieu. Yule notes a profit of £633 for W.L. Baillieu & Co and of £719 for the first half of trading for Edward Latham & Son. The full wage for the North Duke GMCo was £192 pa. The Chatsworth Estate liquidation continued and the New Chatsworth Estate Co was formed with W.L. Baillieu receiving £100 pa as secretary and with the offices at 243 Collins. An estimated £500 was received in this year for other liquidations<sup>59</sup> - including the lucrative Australian City & Suburban Investment & Banking Co.- and a few directorships.<sup>60</sup> Baillieu probably began share deals on his own behalf at this time buying brewery, coal, newspaper and banking shares at bottom prices. A round figure of £3000 profit is estimated for the year.

In 1894 the profit of W.L. Baillieu & Co was down slightly at about £600. It is assumed the brewery made an annual profit of about £700. In this year the Baillieu /Fink group regained control of the Herald, and a merger with the Evening Standard occurred and Baillieu was appointed director. The New Chatsworth Estate joined the group of companies Baillieu was liquidating and the next few years were probably the peak of earnings from liquidations with an estimate of about £550 for this year. As well W.L. Baillieu retained his position as legal manager of the North Duke and after several years of calls this company began producing gold and issuing dividends. It is assumed that other deals took on a significant contribution from this year onwards probably contributing at least £2000 in total for an annual income of over £4000. Both 1895 and 1896 saw the profits of W.L. Baillieu & Co and other entities improve with the economy. The payment of £4000 for the formation of the Outtrim, Howitt & British Coal Mining Co and other services to the company in March 1895 possibly provided more than half of the net profits for the year of about £7,500 pa with a similar amount earned the following year. The Herald began issuing 10% dividends in 1896 and Baillieu relinquished several directorships and passed on his liquidation of the Chatsworth & New Chatsworth Estate Cos to younger brother Arthur Sydney Baillieu prior to his trip to London in 1897.

### **Conclusion**

Even with all these advantages Baillieu's progress out of the 'quagmire' of the 1890s depression and his secret bankruptcy was slow. But by the end of 1896 he had 'turned the corner' and any remaining debts of the pre-composition days had either been dealt with or forgotten and the Ozone Hotel in Queenscliff had been relinquished to the mortgage holder W.B. Charters. The way was open to expand his business interests in property, brewing, mining and mineral treatment. Spectacular profits were soon to be made with the Duke United Gold Mine<sup>61</sup> and the Jubilee Gold Mine Scarsdale<sup>62</sup> and his mining and other interests expanded to Broken Hill and the rest of Australia. Eventually the Baillieu family possessed a huge fortune and industrial empire which was in substantial part built on fraud involving the secret compositions and other questionable activities.

### **Addendum**

Recent work (September 2013) in the Public Records Office of Victoria has substantially altered a number of findings in this paper.<sup>63</sup> In particular there is now direct evidence that at least six Baillieu related Federal Bank accounts were not written off as Michael Cannon in *The Land Boomers* - and more recently Peter Yule - maintained. Until I read the Baillieu Allard papers (about 2008) I also accepted Cannon's assertion. This astonishing fact compounds by a huge amount the actual debt of Baillieu and related parties and is a major fraud. Payments on these accounts - presumably by W.L. Baillieu - were made through 1893 and early 1894 coinciding with the bank crashes and an extreme scarcity of hard cash. The payments to the liquidator of the Federal Bank during 1893 were about £2000 raising the additional question of where these funds came from. It now appears quite possible that either Latham or Baillieu or both of them had access to secret cash reserves.<sup>64</sup> Alternately it is just possible the Federal Bank may have issued further credit to them prior to it shutting its doors in January 1893. Otherwise these payments would have consumed most if not all the estimated profits for the year. One or more payments to the Federal Bank liquidator Alfred Priestly were made in the following accounts; Munro & Baillieu overdraft, Munro & Baillieu Lease Account, Munro & Baillieu Special Account, Baillieu overdraft, Latham & Ashton overdraft, Latham & Baillieu overdraft. The total amount

of Baillieu and related parties bank debt - principally owed to the Federal Bank - at the time of his secret compositions has been estimated at £225,598.<sup>65</sup>

### End Notes

1. This paper is primarily based on the following sources 1. Michael Cannon in his *The Land Boomers*, MUP Melbourne 1966, his expanded version of the same work entitled *Land Boom and Bust*, Heritage Publ. Melbourne 1972 and his manuscript material MS6205 Series 1 Box 1 Folder 4 in the National Library of Australia. 2. Baillieu Allard Papers, University of Melbourne Archives (henceforth BAP) 3. Yule, Peter. *William Lawrence Baillieu - Founder of Australia's Greatest Business Empire*, Hardie Grant, Melbourne, 2012. Yule's work exhibits a thorough knowledge of the extensive BAP and was published after the first draft of this essay was completed thus requiring it to be completely revised. I hope to make detailed notes on Yule's work up to about 1900. This will be my last work on Baillieu and the land boom. 4. Public Records Office of Victoria (PROV) In particular VPRS 763 (secret compositions) VPRS 932 (defunct company records) 5. Gardner, P.D. Brief Notes on Some Fraudulent aspects of the secret compositions of William Lawrence Baillieu and friends 1892, Victorian History Journal (VHJ) 80:1:2009.
2. Poynter, J.R. Entry in Australian Dictionary of Biography online (accessed 4/08) at <http://adb.anu.edu.au/biography/baillieu-william-lawrence-willie-5099>
3. Yule. *William Lawrence Baillieu* p.49.
4. Cannon. *The Land Boomers* p. 136
5. Yule uses the year 1900 as Baillieu's emergence from the depression and the difficulties of his secret composition. My preference is for the end of 1896 when it became obvious that the effects of his secret compositions were past and his wealth base re-established.
6. BAP 71/5/18/1
7. Gardner, P.D. 'Brief Notes.....'
8. *ibid*. The exception to this was the first secret composition by Theodore Fink. As my study of the secret compositions is narrow it is not known whether this failure to allocate all the liquid funds available to the bankrupt was the exception or the rule. The disparaging term 'compote' as a recipient of the secret composition was coined by George Meudell (*The Pleasant Career of a Spendthrift and his later Reflections*, Wilkes & Co. Melbourne no date)
9. Cannon. *The Land Boomers* p. 135. For possible contrary evidence see BAP Box 51/5/17/1 letter (4.10.1894) from the liquidator of the Federal Bank requesting the transfer of 1620 Bay Excursion Co shares to settle an unknown obligation. There are various similar references in this location. The addendum now positively proves this assertion.
10. Cannon, M. *The Land Boomers* p.136
11. BAP Box 51 Chatsworth Estate Minute Book. There was no reference to the time scale for this payment.
12. North Duke Gold Mining Co. PROV VPRS 567 PO Unit 413 Item 4441. This company was controlled by Baillieu and Benjamin Fink in late 1891 or early 1892. Baillieu was a director in early 1892 and sometime in the second half of this year moved from being a director to the legal manager. The reasons for this are clear as it offered a substantially greater income (of £192 pa) and more power to direct jobs and other perks. Some of the latter included £2 per month to W.L. Baillieu & Co for clerical assistance, employing younger brother R.C.P. Baillieu on £4 per month and having associate Percy Cook as the accountant on £12.10 per month.(Yule. *William Lawrence Baillieu* p.72 )

13. Gardner, P.D. "Moguls and the Media: the Baillieu/ Fink group and the Herald Saga" paper available at <http://petergardner.info/publications/moguls-and-the-media-the-baillieu-fink-group-and-the-herald/>

14. Yule. *William Lawrence Baillieu*, p.68

15. Between Yule, Cannon, Garden (*Theodore Fink: a talent for Ubiquity*, MUP, Melbourne, 1998) and myself. Possibly more evidence to support this contention will possibly be found in the records of companies being liquidated under supervision of the Supreme Court in the PROV especially that of the Real Estate Mortgage Bank VPRS 12024 P1 Unit27/8 Item 405.

16. A similar intent to deceive was the widespread use by Baillieu and many others of dummy shareholders in their various companies - their purpose being to avoid potentially crippling calls on capital of partly paid shares if the company went into liquidation. These dummies were easily recognisable from share listings although not all were used for their intended purpose. One Baillieu company example is the Camberwell Estate Co (PROV VPRS 932 P0 Unit 74 Item 1261) where a number of dummies were listed but only one eventually employed. About late 1891 or early 1892 it was realised that the debt on share calls in their own companies could be more profitably turned to their advantage by guaranteeing the results of the secret compositions. For compositions to succeed they needed to be passed by three quarters of the creditors representing three quarters of the debt. Baillieu's composition was made up almost entirely of debt to related companies for share calls and promissary notes. Seven companies had claims of more than £600 in his proven debt of £22,400.11.4 - the Bourke Street Freehold and Melbourne Trust Finance & Banking Co representing more than 80% of this debt. (PROV VPRS 763 P0 Unit 6 Item 70B). Thus the need to employ dummies in this situation was no longer necessary.

17. Secret Compositions in PROV of 1. Fink VPRS 763 PO Unit 9 item 100 and 2. Munro & Baillieu VPRS 763 P0 Unit 6 Item 70. An example of the recovery of land caught in 'limbo' after the collapse of the land boom is the South Wharf Freehold Co. This company purchased land outright by a syndicate that included B.J. Fink and W.L. Baillieu. B.J. Fink was the trustee for this property after it reverted back to the syndicate. Probably because of Fink's notoriety the syndicate could do nothing with it. In the meantime the shareholding in the syndicate changed significantly and Baillieu's share went from 1/24 to 3/24. Was his original share listed in his secret composition? After Fink's death on 17.9.1909 the Supreme Court was petitioned to appoint a new trustee and allow the sale of the land - a buyer for which had been found by Baillieu. PROV VPRS 12024 P1 Unit 79 Item 1918. The South Wharf Freehold Co. was a typical 'land boomer' company. It purchased real estate in South Melbourne for subdivision and resale from the Fink syndicate. In the purchase agreement there were to be six payments due over a period of twenty-four months - the first was 10% of the total amount and the last was 60%. PROV Defunct Company Records VPRS 932 /P000, Unit 92 Item 1603.

18. BAP Box 71 & 92. Numerous examples of token payments exist.

19. I only have one example of this when Edward Latham (BAP 71/5/18/3) on 2.8.1895 received a summons for share calls of Daniel White & Co - shares he held before his secret composition.

20. Gardner, P.D. 'Brief Notes.....' In particular is the question of how documents making a claim on the Baillieu composition were mysteriously added to his file some 18 months after the composition had been completed. This was done by the Edgarleigh liquidator and Baillieu associate Thomas Rennell who attended at least one of the meetings of the W.L. Baillieu secret composition, and thus was fully aware of the circumstances. It would seem that Baillieu was fully aware, and approved of, the

Edgarleigh addition to his composition. There are other examples of material being added to compositions but these were usually of a legal nature.

21. See end note 9. The details of Baillieu's Federal Bank debt can be found in a number of sources but principally in Cannon's *The Land Boomers* and *Table Talk*. This information is both contradictory and confusing. On p.140 Cannon has Baillieu's bank debt including a half share of the debt of Munro and Baillieu and that of his father and brothers at £124,500. On p.135 he has this debt at £98,828 (which he stated was written off) plus a further £70,279 for his share of the Munro and Baillieu debt most of which was owed to the Federal Bank. *Table Talk* (May 11 1894) noted that Manager A. Priestley had written off all James Munro's debts before the bank suspended payment and "Other accounts were treated in the same fashion. He also wrote off very large sums from most of the accounts referred to, and wiped out several entirely.." Included in the latter were Munro and Baillieu £20,000 and Munro and Baillieu lease account £5000. *Table Talk* (Dec 8 1893) listed a number of Baillieu related accounts that may have been missed by Cannon including Latham and Baillieu £10,484 and Latham and Ashton £17,172. Baillieu also went guarantor to a number of accounts of associate A. Hall (and probably others) and should have been liable for this debt. Further there were substantial overdrafts outstanding on Munro/ Baillieu/ Fink companies including Heart of Preston £13,700 and Henry George £10,300. Baillieu's close association with the Federal Bank was as follows: from 1882-1884 he was the personal assistant of manager A. Priestley, from 1885 - 1892 he was the partner of Donald Munro, son of James Munro founder and Managing Director of the bank and father-in-law Edward Latham was a director of the bank from 1890 to 1892. It is now firmly established that six Baillieu accounts were not written of as claimed by *Table Talk* and Cannon. See Addendum for the most recent revelations on this and note 63.

22. BAP 78/14/23/1 a small stamp, or stamp duty, receipt book indicates that the Munro & Baillieu offices at 243 Collins St traded through the bankruptcy of their firm and its partners to Saturday 30 July. The next transaction recorded was on Friday 5 August 1892 indicating a maximum closure of 4 working days for the changeover.

23. Yule. *William Lawrence Baillieu*, p.49. By agreeing to pay Donald Munro £400 for his share of the partnership Baillieu was in effect valuing the business at £800. It is unlikely that such an agreement would have survived Court supervision.

24. Cannon, M. *The Land Boomers* p.122

25. Sykes *Two Centuries of Panic* Allen & Unwin, Sydney 1989 p. 153

26. Yule. *William Lawrence Baillieu* p.50

27. Yule's claim that it was the large shareholders who were most affected by the depression and crash is debatable (p.30) since most of their wealth was created by a combination of borrowing money and boom conditions. Baillieu's debt to the Federal Bank and his other losses could hardly be compared to the losses of the middle and small shareholders who were generally forced by the liquidators to pay share calls from their savings. Few amongst the big time boomers honoured their debt. For an example of this see the Australian City & Suburban Investment & Banking Co (AC&SI&B Co) liquidated by W.L. Baillieu note 31.

28. see Note 11.

29. Supreme Court Records PROV VPRS 12024 / P1 Unit 39 File 565

30. The BAP Box 51 gives details for the Chatsworth Estate and it was noted by liquidator Baillieu that the partnership of Munro and Baillieu held 1702 Chatsworth Estate shares with a liability of over £3000 and that the partnership was "insolvent". (BAP Box 52) The shares of Edward Latham appear to have been sold or transferred to the Real Estate Bank prior to liquidation. Other closely connected shareholders were probably treated favourably. It should be noted that liquidators often faced a dilemma when dealing with shareholders who appeared to have been, or were, insolvent. There

was no guarantee that liquidators would recover their legal costs and in pursuing hopelessly (but not officially) bankrupts such as Tommy Bent may have actually lost money.

31. The income for the AC&SI&B Co in liquidation was entirely from share calls as the land was all lost either to mortgage holders or it reverted back to the original title holders. The large shareholders invariably were either bankrupt, had secret compositions or were treated favourably. This was probably so in the case of Tommy Bent although I have no direct evidence for this. The defunct company records (PROV VPRS 923 P0 Unit 87 Item 1476) indicates that in February 1893 Bent had 36,000 shares and a dummy William McMahan had 72,000. In 1894 the case of McMahan versus Bent was heard by the Supreme Court whereby McMahan repudiated a contract of sale of 36,000 shares from Bent. Those shares had a liability of over £40,000. Cannon (pp. 184-5) noted: "McMahan's summons for placing Bent on the list of contributors was granted with costs against Bent" and "Bent was now faced with a choice between paying the calls and legal costs. How and where he got the money to stay beyond the reach of the Insolvency Court remains a mystery, but he was, temporarily, a broken man." Note the conflict between Cannon's account and the company records. Bent was a close friend and business partner of Benjamin Fink and presumably his debt to the AC&SI&B Co was waived. A recent examination of the Supreme Court file on this company liquidation confirms that there is no evidence that Bent paid a penny. In an affidavit to the court he claimed that the shares really belonged to the Mercantile Finance Trustees & Agency Co in liquidation and it appears that this entity covered Bent's court costs. PROV VPRS 12024 P1 Unit 39 File 565

32. in B. Fink Secret Composition file. see note 17. Catherine was almost certainly representing her husband.

33. In theory these debts could have been repudiated but doing so may have involved adverse publicity and thus Baillieu chose to deal slowly and quietly with each of these claims.

34. Yule. *William Lawrence Baillieu* p.58

35. *ibid* p.51

36. *ibid* pp.55-6

37. Cannon, *Land Boom and Bust* p.265

38. BAP 71 / 5 / 16 on 1.6.1893

39. Yule *William Lawrence Baillieu* p.57

40. *ibid* pp.77-8

41. *ibid* p.77. Yule noted: "The company's prospectus valued the property at £30,000, but all the shareholders had to show for their investment three years later was a small hole in the wilderness many miles from Mount Lyell."

42. The exact date of his change from director to legal manager is not known. The reason for him doing so was a substantial increase in pay. See also note 12.

43. BAP 71/5/17/1

44. Latham Secret Composition PROV VPRS 763 P0 Unit 5 Item 55

45. The purchase of the Southern Brewery could have been financed a number of ways including by property held by Bertha Latham and Bertha Baillieu, by funds not distributed in the secret compositions of both Baillieu and Latham or by a loan from the Federal Bank which did not suspend payment until January 1893.

46. Isaac Reid was the founder of the Melbourne Cyclorama Co. Reid attended Baillieu's Secret Composition and was a close business associate. Baillieu was consecutively the Auditor, a Director and then liquidator of Melbourne Cyclorama Co. PROV VPRS 932 P0 Unit 106 Item 2382

47. Yule, *William Lawrence Baillieu*, p.65

48. Bertha Latham died on 8.5.1894 and Thomas Latham died on 5.10.1894. There does not appear to be a probate record for either of these deceased estates in the PROV. This is a mystery as Thomas was both a businessman and property holder and his estate still held one share in Edward Latham & Son in 1898 .

49. Edward Latham & Son, Defunct Company Records PROV VPRS 932 P0 Unit 133 Item 2813

50. Cannon. *The Land Boomers* pp.211-12

51. The location of Benjamin Fink after his secret composition can be traced through the BAP. Much of the time (but not all) between his composition in 1892 and his death in 1907 was spent in London and his wife was his unofficial agent here in many land deals with Tommy Bent and others. For instance on 6.2.1896 he was in Queenscliff. (BAP 71 5/19/3).

52. *Table Talk* 8.12.1893

53. Yule. *William Lawrence Baillieu* p.49

54. The Apostles lunched daily at the Australia Club and included William McCulloch and William Cain of Melbourne Tramways, Duncan Gillies MLA (1883-90 Minister for Railways and Premier 1886-90) James MacBain MLC, W.I. Winter-Irving MLC, Samuel Staughton MLA, Robert Harper MLA and Railways Commissioner Richard Speight.

55. The Scotts Hotel group lunched daily at this venue during the 1890s and included David Syme of the Age, solicitors William Croker and Samuel Gillot, W.G. Sprigg and Andrew Rowan of Melbourne Tramways and Agar Wynn MLC. The first three mentioned were part of the syndicate which purchased the hotel about 1890. Edward Latham was an original member of this syndicate but was forced to retire from it when he took his secret composition. J.F. Levien was also an original member.

56. McCulloch companies included Melbourne Tramways & Omnibus Co, William McCulloch & Co. the McCulloch Carrying Co, the Bay Excursion Co. McCulloch Insurance, Murray River Saw Mills, Moama-Deniliquin railway and a number of coal companies.

57. Yule. *William Lawrence Baillieu*, p.78.

58. Estimates are primarily based on Yule.

59. Records are sparse and it is sometimes unclear when many of the liquidations began.

60. Examples include the Queenscliff Gas and Coke Co - a Baillieu controlled company which avoided liquidation and of which W.L. Baillieu was a director at this time - and the Melbourne Cyclorama Co which did not go into receivership until 1894. Possibly there were other companies such as the City Road Property Co and Edgarleigh yet to go into receivership at the time of his secret composition, in which Baillieu was a director.

61. Gardner, P.D. The Duke United Mine GMLCo., Maryborough: Baillieu's 1897 Take-over and Outcomes. Journal of Australasian Mining History No. 9 Sept. 2011

62. Yule. *William Lawrence Baillieu* p.377 End Note 20 of chapter 4 states "Gardner...argues that the Stock and Share Pty Ltd 'possibly held the 3 Herald & Sportsman [and] share holdings in the Jubilee mine, Scarsdale.' In fact the Herald shares had been sold and WL did not buy shares in the Jubilee Mine until 1899." Both these assertions by Yule are incorrect. I have clearly documented elsewhere (see note 13) that the Herald shares were not sold. With regards the Jubilee mine Yule has confused me with another source. The reference to the Jubilee mine was made by J.R. Poynton in his ADB entry (see note 2) where he incorrectly claimed that Baillieu had bought the mine in 1889. On no occasion have I referred to the Jubilee Mine as being part of Baillieu's secret composition in 1892 and I have been aware of the purchase of this mine in 1899 for a number of years. See also Gardner, P.D. "Brief Notes..." End

Note No.37. I did however suggest that shares in both the Grand Duke GMCo and the North Duke GMCo may have been held by Stock and Share Pty Ltd.

63. Supreme Court Records PROV VPRS 12024 P1 Unit32/33 Item 486

64. George Meudell for instance put away £1000 in gold in a safe deposit box when he saw the crash approaching. Meudell, George. *The Pleasant Career of a Spendthrift and...* p.24

65. Cannon, M. *The Land Boomers*, Thos. Nelson, Melbourne 1976 expanded, illustrated version. P.207

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