

The Deakinite Myth Exposed
Other accounts of constitution-makers, constitutions
and citizenship

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Declaration

I declare that this thesis is my own account of my research and contains as its main content work which has not previously been submitted for a degree at any tertiary education institution.

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Abstract

As argued throughout this thesis, in his personification of the federal story, if not immediately in his formulation of its paternity, Deakin's unpublished memoirs anticipated the way that federation became codified in public memory. The long and tortuous process of federation was rendered intelligible by turning it into a narrative set around a series of key events. For coherence and dramatic momentum the narrative dwelt on the activities of, and words of, several notable figures. To explain the complex issues at stake it relied on memorable metaphors, images and descriptions.

Analyses of class, citizenship, or the industrial confrontations of the 1890s, are given little or no coverage in Deakinite accounts. Collectively, these accounts are told in the words of the victors, presented in the images of the victors, clothed in the prejudices and predilections of the victors, while the losers are largely excluded. Those who spoke out against or doubted the suitability of the constitution, for whatever reason, have largely been removed from the dominant accounts of constitution-making. More often than not they have been 'character assassinated' or held up to public ridicule by Alfred Deakin, the master narrator of the Conventions and federation movement and by his latter-day disciples. Those who opposed Deakin I have labelled anti-Deakinites.

To anti-Deakinites, the journey to federation was characterised by compromises and concessions that reflected or produced a series of exclusions (of individuals, groups and ideas) from Deakinite stories of federation, often for reasons of political exigency. They acknowledge that compromises had to be made in bringing about federation. Men with a national viewpoint they believe, often acquiesced to states' rights men whose primary interest was a good deal for their state or colony. Anti-Deakinites are critical of the heroes in Deakinite accounts (of the Ultra-Federalists) believing that

these men would have federated any time after 1891 with an undemocratic and illiberal constitution.

Events that were to influence the course of Australian history took place during the 1880-90s. Yet the dominant accounts of constitution-making do not acknowledge the context within which the constitution was written. It is difficult denying that these must have influenced the Constitution-makers as they began their work in 1891. The central claim of my thesis is that many accounts of Australian constitution-making and federation have been selective in their descriptions of the events and the organisations and individuals involved, leading to the misrepresentation of these seminal episodes in Australian history. This misrepresentation has occurred as a consequence of the privileging of, what I label, the Deakinite account of constitution-making and federation over all others.

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Introduction

This thesis began as a personal search for an understanding of citizenship. I knew that the citizen is taken to be an integral part of many western liberal democracies that had evolved during and after the sixteenth century, yet I did not fully understand what the rights, duties and obligations of the citizen were. I read extensively on the role of the citizen, particularly Australian theorists of citizenship. At some point during my readings I realised that these theorists were advancing two opposing lines of argument. One suggested that Australians had been citizens since the 1850s. For these theorists the advent of responsible government, limited franchises (far more inclusive than in Britain at the time) and popularly written constitutions in the fledgling Australian colonies, was proof that citizenship has existed in Australia for over 150 years. They also believed that the Constitutional Conventions (hereafter the Conventions) of the 1890s had emanated from the people, witnessed in the popular election of some delegates to the Conventions of 1897-98 and the 'people' voting for the Constitution Bill in 1898 and again in 1899. Many of these theorists believed that the journey to federation had been a triumphal and heroic one.

Another group of theorists opposed this line of thinking, arguing that Australian citizenship had always been weak, passive and pragmatically based, concerned more with issues of race, ethnicity and the alien other than about the rights and obligations of the individual within the polity. Rather than citizens, this group claimed that Australians have, by and large, always been subjects of the British Crown. Although these theorists recognise the slow and steady progress of democracy, seen in the growth of colonies from penal settlements to self-governing entities during the latter decades of the nineteenth century, leading to the advent of federation in 1901, to them citizenship has been unimportant to most Australians. A people seeking to facilitate citizenship at a federal level did not drive the federation movement they claim, rather self-interested

and pragmatically inclined politicians brought about federation for their own benefit, and without any intention of enabling citizenship.

Throughout my readings I had noticed numerous references to the citizen during the Convention Debates. After reading these, I found that citizenship had been discussed at both the 1891 Convention and again at the Conventions of 1897-98. I then looked to the Australian Constitution to find what had been written into it about citizenship. I found little or nothing. Only five sections of the constitution (92, 116, 117, 51 [xxxii] and 80) guarantee some of the absolutely essential rights needed for a democratic exercise of the vote.¹ I was perplexed.

If Australians had always been citizens, as one group of theorists had enthusiastically claimed, the omission of citizenship from the constitution was, for me, puzzling. The more I read about Australian constitutional history and theory the more I realised that many stories of the journey to federation had important elements missing from them. That two accounts of the same seminal events in our history could be so different reinforced my belief in this. 'Discovering' the works of L. F. (Fin) Crisp was to become crucial to my understanding of the federation movement. At this point I began to think less of citizenship and more about stories of federation and constitution-making.

Crisp was the one author who drew my attention to the inconsistencies in accounts of the federation movement. His short biographies of six Constitution-makers, who he believed had been excluded from stories about federation, largely because each had opposed what they believed was a flawed constitution, were pivotal to my thesis. Crisp suggested that a limited selection of politicians from Victoria and New South Wales,

¹ Davidson, Alistair (1997) *From Subject to Citizen: Australian Citizenship in the Twentieth Century*, Cambridge University Press, Melbourne, p 51. Section 92 guarantees absolute freedom of trade, commerce and intercourse throughout the Commonwealth. Section 117 ensures that all subjects of the monarch will be treated equally no matter where they reside in the Commonwealth. Together, these sections add up to a complete freedom of movement of subjects throughout the territory of the Australian state. Section 116 guarantees freedom of religion. Section 51 (xxxii) guarantees property rights since even the state cannot take property away from an individual without paying fair compensation when it does so. Finally, Section 80 guarantees trial by jury, a basic tenet in any rule of law.

such as Edmund Barton, Alfred Deakin, Bernhard Wise, John Quick and Robert Garran, had dominated these stories, while other Constitution-makers such as George Reid, H B Higgins, Isaac Isaacs, Charles Kingston, A I Clark and Richard Baker had been excluded from these accounts.

These ideas were further reinforced after I had re-read John La Nauze's magisterial book *The Making of the Australian Constitution*. Several crucial issues are given little or no coverage in La Nauze's text. Class is not analysed as a factor in colonial society (a perusal of the index reveals no mention of class). The absence of a working-class voice at the Conventions of 1891 and again in 1897-98 seems to be insignificant to La Nauze. And, he does not analyse the effect that the Great Strikes had on constitution-making, or the influences these events had on the Constitution-makers, several of whom had been directly involved in these on the side of capital and the state.

The Making of the Australian Constitution was written immediately after La Nauze had written a superb biography of Alfred Deakin and, in his analysis of the federation movement, La Nauze seems to be too accepting of the veracity of the words of Alfred Deakin. Deakin had been an influential Victorian politician prior to the Conventions of the 1890s and had attended every conference or meeting regarding federation after 1886. Deakin had also written prolifically on the federation movement, including anonymous letters to the *Morning Post* newspaper in London between 1900 and 1910, accounts of his activities and the meetings he attended in the 1890s, and a personal account of the Conventions of 1891 and 1897-98 that contained caricatures of several influential Constitution-makers that were intended to fix particular (either positive or negative) perceptions of these men.

Although these accounts are witty, colourful and humorous, they are shaped by Deakin's prejudices and proclivities. With few other Constitution-makers writing

personal accounts of the federal movement, Deakin's accounts have become difficult to gainsay. It also seems that La Nauze was building on the works of John Quick, Robert Garran, Ernest Scott, Walter Murdoch and Keith Hancock, each of whom endorsed the triumphal and heroic account of the federation movement that Deakin produced and La Nauze replicated.

Deakinites

Authors such as La Nauze, Garran, Quick and Hancock have perpetuated a triumphal and heroic account of the federation movement. Each tells a story about the personal, familial and economic sacrifices seventy or so men made for the greater good of *all* Australians, past, present and future. Analyses of class, citizenship, or the industrial confrontations of the 1890s, are given little or no coverage. Collectively, they are told in the words of the victors, presented in the images of the victors, clothed in the prejudices and predilections of the victors, while the losers are largely excluded. To me, these authors have borrowed extensively from Deakin's story telling. I have labelled them the Deakinites. The reference to 'Deakinites' comes from my belief that Alfred Deakin's accounts of the federal journey have been taken up by later commentators, who have followed his account almost without question.

John Quick and Robert Garran's *The Annotated Constitution of the Australian Commonwealth* remains one of the most influential books on the federation movement. Both men had been present at the Conventions of 1897-98, Quick as a Constitution-maker and Garran as secretary to George Reid (Constitution-maker and New South Wales Premier). Written in 1900, this volume is a mammoth scholarly undertaking. It is divided into three sections. Section One traces the rise of western civilisation from Greek times to the settling of the Australian colonies. Section Two presents an extensive overview of the federal movement in Australia. A third section, entitled 'Commentaries on the Conventions', presents a comprehensive and detailed analysis

of the Australian Constitution. John Quick also gained fame as 'father' of the popular movement for federation when he proposed popular election of delegates to future federal conventions at the Corowa Federal Convention (unofficial) of 1893. Robert Garran enhanced his reputation through his service to the nation as a selfless and exemplary public servant.²

B R Wise, delegate to the 1897-98 Conventions, was another who wrote an account of the making of the Australian Commonwealth. Like Barton, Deakin, Quick and Garran, Wise was what L F Crisp referred to as an Ultra-Federalist (a group of Constitution-makers who never lost faith in the Holy Grail of federation).³ Educated at Rugby School and Queens College Oxford, Wise has been described by subsequent commentators as the archetypal middle-class Australian man. To the likes of Henry Lawson and other egalitarian-minded colonists, Wise was the class enemy. To Manning Clark, Wise was one of those 'middle of the road men', those colonial pragmatists who could both build a great nation under the Southern Cross and make meat cheaper, those who thought federation was preferable to revolution, those who believed in loyalty to throne and empire, those enlightened bourgeois politicians who believed that the interest of the bourgeois would be best served by federal union under the Crown.⁴

Ernest Scott attended the 1897-98 Conventions as a journalist for the Melbourne-based *Herald* newspaper and often found himself in conversation with Alfred Deakin. Scott and Deakin shared many interests and friends. The Melbourne Theosophical Society was one such shared interest. Their relationship is important because there is a marked resemblance between the characterisations of several Constitution-makers Scott sent back to his newspaper and those that Deakin completed a few months later.

² Brownrigg, Jeff, 'Federation's prodigy: the private life of Robert Randolph Garran', in Headon, David and John Williams (eds) (2000) *Makers of Miracles: The Cast of the Federation Story*, Melbourne University Press, Melbourne, p 97.

³ Crisp, L F (1990) *Federal Fathers*, Melbourne University Press, Melbourne, pp 2-3.

⁴ Clark, Manning (1999) *A History of Australia*, Volume V, Melbourne University Press, Melbourne, p 142.

Their pen portraits of Barton, Reid, Wise and Forrest all share remarkable similarities. As early as 1916 Scott (then Professor of History at Melbourne University) introduced Australian school children to the history of the federation movement when it became a staple part of civics programs in schools.

Walter Murdoch, friend of Deakin's daughter Ivy and son-in-law Herbert Brooks (who maintained the repository of Deakin's papers after his death), drew on Deakin's papers in writing a biography of Deakin in 1923, entitled, *Alfred Deakin: A Sketch*. Brooks, assisted by family and friends, edited Murdoch's work and published it in 1944 as *The Federal Story: The Inner History of the Federal Cause*. John La Nauze edited a new edition of *The Federal Story* in 1965. Stuart Macintyre also revised it in 1997. To Macintyre, Deakin's account is still the most readable and significant version of the federation movement.

Keith Hancock was another historian to perpetuate the Deakinite account. During 1940, Keith Hancock wrote that, 'monarchy grows into democracy, empire grows into Commonwealth, the tradition of a splendid past is carried into an adventurous future'.⁵ Hancock became one among many who, at the time, portrayed the (British) monarch as being the protector of democracy and national security, the symbol of civic virtue and service, and a bulwark against tyranny, corruption and the despotic whims of oppressive governments. Hancock provided a much needed message during a time of global warfare. Between 1945 and 1975 this kind of reasoning had claimed almost complete ascendance.

Although Deakin's story had largely faded from public view in the 1970s and 1980s⁶, it underwent a metamorphosis in the 1990s. Writing against the backdrop of a new

⁵ McKenna, Mark (1996) *The Captive Republic: A History of Republicanism in Australia 1788-1996*, Cambridge University Press, Melbourne, p 216.

⁶ Deakin, Alfred (1995) *And Be One People: Alfred Deakin's Federal Story*, (With an Introduction by Stuart Macintyre) Melbourne University Press, Melbourne, p xxviii.

millennium and a hundred years of federation, a new generation of theorists and historians attempted to make something out of a story in which few Australians seemed genuinely interested. With symbolic titles and metaphorical characters, these authors attempted to convince the Australian people that the men who they believed were responsible for federation were national icons. David Headon and John William's *Makers of Miracles: The Cast of the Federation Story*, was undoubtedly the loftiest in its ambitions. With chapter titles like the 'Miracle-makers', 'Dreamers' and the 'Spirit-makers', the author's intentions were clear: the men who had been instrumental in bringing about federation were national heroes whose deeds were sacred.

In *Federation: The Secret Story*, Bob Birrell maintains that the driving force behind federation was a popular movement based on intense nationalistic feelings about what it meant to be an Australian. Organisations like the Australian Natives Association, the Australian National Defence League and the Australian Federal League, are central to his story. Each of these groups was influential in the federation movement, mainly in Victoria and, to a lesser degree, in New South Wales.⁷ Although he claims that these organisations were inclusive of all classes, their membership was predominantly middle-class men. In Birrell's story, few people were excluded from the federal compact. Birrell would also have us believe that revisionist writers and elite groups have soiled the early years of our national experience and undermined Australian's faith in their heritage.

John Hirst's *The Sentimental Nation: The Making of the Australian Commonwealth* is another excellent book that lionises the men, women and groups involved in the federation movement. His chapter titles are also infused with symbolism and metaphor, including: 'Destiny', 'Identity', 'Prophet', 'Revival', 'Beginning', 'Forgetting' and 'Legacies'. Hirst claims that federation was as much a product of the poets,

⁷ Clark, Manning (1999) *A History of Australia*, Volume V, pp 129-31.

mystics, patriots, politicians and idealists, as it was the pragmatists, the customs issue, the economists and the traders. Men like Barton, Griffith, Deakin and Quick wanted to federate to build a nation amongst nations, a nation that was the 'fairest and the best' in the world. According to Hirst, idealism cannot be ruled out as a major motivating factor behind federation. God and success: these may appear to some Australians (myself included) to make this an un-Australian story, but it became so in the end.

In *To Constitute a Nation: A Cultural History of Australia's Constitution*, Helen Irving argues that in constituting their nation Australians have displayed an uncanny ability to reconcile the demands of pragmatism with the spirit of romanticism. She locates federation and the constitution in the context of broader changes in the arts and literature, in the political sphere, in race relations, in the level of political activism amongst women, and in the reality of difficult economic times. Importantly, Irving reflects on the nature of drafting law: could a perfect society be created if its constitution consisted of perfect words? Showing its commitment to British institutions, yet conceived within an American framework, the constitution, she claims, was a paradoxical document: it provided for British disallowance of Commonwealth laws on the one hand, but was endorsed and inspired by the Australian people on the other. To Irving, there is something uniquely Australian about the constitution, marking a Utopian moment as the old century gave way to the new.

Critics – The Anti-Deakinites

Despite my claim that Deakinite stories about federation have dominated since 1901, there have been critics of these. As early as the 1891 Convention some colonial politicians and several Constitution-makers were expressing concern about the Ultra-Federalists and their haste to 'stitch together' a deal that would establish a federation of the colonies. Not surprisingly, with the advent of federation in 1901 many of these voices were silenced. During the 1950s several Australian historians and political

theorists began to unravel the Deakinite account. Instead of a triumphal and heroic account of the federation movement, critics of the Deakinites focused on class, industrial turmoil and exclusion, among other things, in developing their stories about the journey to federation. This group I have labelled the anti-Deakinites.

During the 1950-60 period, Robin Gollan (in *Radical and Working-class Politics: A Study of Eastern Australia 1850-1910*), Brian Fitzpatrick (in *A Short History of the Australian Labor Movement*), Russell Ward (in *The Australian Legend*), and Ian Turner (in *Industrial Labor and Politics*), wrote stories that directly challenged the Deakinite account. These authors tell optimistic stories of radical and working-class achievement. Clothed in an Australian nationalism and written in the context of class struggle, these authors' works were an attempt to include those who they believed had been excluded from the Deakinite account. They claimed that the building of institutions like trade unions, labour parties, arbitration and the beginnings of the welfare state, which emerged as a result of the growth in workers' class consciousness and militancy in the 1880s and out of the social and economic crises of the 1890s, attests to this.

In Volume V of his *A History of Australia*, Manning Clark outlined what he believed had happened to Australia between 1888 and 1915. Clark's story is of a time that begins with confidence and ends with these hopes and ideals lying in tatters. Using Henry Lawson and Alfred Deakin as the narrators of his story, Clark believed that their personal tragedies corresponded with the tragedy of what had happened to the Australian people. At the mid-point in Clark's narrative, Alfred Deakin is referred to as Mr Deakin, because Clark contends that Deakin deserted the ideals of his earlier years. By the end of 1907, Deakin had spurned the liberalism that had been both his inner and outer motive force, trading this for a politics of class. As too few Australians know,

Lawson died a destitute alcoholic. To Clark, the tragedies of Lawson and Deakin were the tragedies of Australia writ large.

From the 1980s to the turn of the twenty first century, another generation of authors challenged the Deakinite account. Bob Connell and Terry Irving's *Class Structure in Australian History* provides an extensive analysis of class in Australia. Connell and Irving sought to understand the patterns of class relations that Australians had lived within and had acted upon in the here and now. Peter Botsman's *The Great Constitutional Swindle* is also biting critical of the Deakinite account. His story highlights what he believes were the exclusions, concessions and compromises that took place along the road to federation. In his revised edition of Alfred Deakin's *The Federal Story*, Stuart Macintyre suggests that Deakin's words have anticipated the way that stories of the federation movement are now told.

In *A New Australia: Citizenship, Radicalism and the First Republic*, Bruce Scates contemplates what Australian society might have become had competing viewpoints on the composition of Australian society been extensively debated. Scates concedes that a time of questioning ceased during the 1890s and that the inequalities of class, wealth, gender and opportunity prevailed largely unaltered. Consequently, opportunities for imagining a fairer, just and more equitable Australian nation were lost forever. John Rickard's *Class and Politics* is a study of the relationship between the working class and those with whom it shared a class relationship. The rise of labour and anti-labour in the political milieu, which led to the development of two polar-opposite party-political machines, is to Rickard one very obvious manifestation of class in Australia. Ray Markey's *The Making of the Labor Party in New South Wales: 1880-1900*; and Verity Burgmann's *In Our Time: Socialism and the Rise of Labor 1885-1905*, continued to question the authority of the Deakinite account. I have

already acknowledged Fin Crisp's influences on my scholarship which I can now look back on as my first encounter with anti-Deakinite accounts.

Although I am inclined to side with the anti-Deakinite viewpoint, I was surprised to discover that Alfred Deakin also held deep concerns about the federal movement. Deakin believed that few people associated with the federal movement had made genuine sacrifices without thought or hope of their own personal gain. It was only the young and the imaginative patriots who shared a true and abiding enthusiasm for federation. Deakin lamented the fact that federation was a victory of the ruthless, practical man over the more educated and cultivated one. Writing between the final passage of the Commonwealth Bill through the British Parliament in June 1900 and its proclamation in September of that same year, he observed that federation's fortunes had visibly trembled in the balance twenty times in the ten years after the colonial premiers had gathered in Melbourne (1890) to declare their support for a federal union.⁸

Again and again, Deakinite lamented that the constitution had been made the sport of ministries and parliaments. Furthermore, Deakin seemed to hold a pessimistic view of the people, believing that they were at best fickle, restless, short sighted and gullible.⁹ In young communities Deakin believed decorum and even decency was too often sacrificed to what is called democracy, something that was in fact only the intrusiveness of interests and individuals pursuing their own ends at the expense of the public interest. That the people could rise to their national duty and overcome self-interest and that elected officials could align personal ambition with public duty were, to Deakin, the true miracles of federation.¹⁰

⁸ Macintyre, Stuart (1997) *A Federal Commonwealth, an Australian Citizenship*, Department of the Senate Occasional Lecture Series, Parliament House, Canberra, p 1.

⁹ *Ibid*, p 1.

¹⁰ *Ibid*, pp 1-2.

To both Deakinites and anti-Deakinites, no subsequent commentator has managed quite the same fervour for Australian federation as did Alfred Deakin. Despite Deakin's misgivings, latter-day Deakinites seemingly look back to the federation movement and the 1890s as a golden age passed. A closer reading of the Convention debates, commentaries and other writings of the 1890s reveals, however, that several conflicting viewpoints on key issues existed at the time. Rather than a time of 'smooth' historical progress, as Deakinites aver, to anti-Deakinites the road to federation was a time of social and political upheaval, of fervent radicalism and acrimonious debate over ideas and policies for the emerging Australian nation. Although Deakinites would be disinclined to agree with me, exclusion was an integral part of the Constitution-makers' work.

Exclusions and Omissions

As I have previously claimed, for the Deakinites the journey to federation was one of inclusion. When the Deakinite account is set against the anti-Deakinite account, however, several different possibilities arise. Although anti-Deakinites readily acknowledge those who were included in stories about federation, unlike the Deakinites they concede that many Australians were excluded or omitted from these. Class, industrial confrontation, the involvement of Constitution-makers in these confrontations, the deliberate exclusion of Constitution-makers from committees at the Conventions and the absence of citizenship from the constitution, become central issues in an anti-Deakinite account. Socialists, radicals, anarchists, women, Indigenous people, non-Anglo-Celtic men and (what the middle-class organisers of these events believed were) other social and political 'deviants' were also among those omitted from the Deakinite account.

The proscription of class distinction or party influence led to the exclusion of republicans, radicals and socialists from the Conventions, meetings and conferences

held during the 1890s. The delegates to the Corowa Conference, for example, were carefully selected so as to avoid unwelcome comments from undesirable participants.¹¹ Although class is absent from Deakinite accounts and is not seen to have been a catalyst for political, social and economic change in colonial societies, this is a difficult position to uphold. The success of colonial labour parties after 1891 is one example of the problems that arise when class is neglected. Labour parties formed with the intent of *only* representing working-class constituents in the political milieu. In this context, it is difficult to deny that class was not a motive force in colonial societies.

If, as anti-Deakinites claim, the Constitution-makers did recognise the revolutionary power of the working classes, particularly during the industrial confrontations of the 1890s, their siding with employers and the state against striking unionists was logical. From this standpoint, it is not difficult to accept that the Constitution-makers were merely protecting middle-class hegemony. When constitution-making is taken in this context, it is not unreasonable to suggest that the Constitution-makers would write a constitution to protect their power and authority from a burgeoning working class. Deakinites, however, do not connect the work of the Constitution-makers as Constitution-makers and their involvement in the industrial confrontations of the 1890s. They seem to believe that the Constitution-makers rose above the existing social, political and industrial mayhem and wrote a constitution that was for the good of *all* Australians.

The exclusion of several Constitution-makers from committees at the Conventions also gains little coverage in the Deakinite account. Isaac Isaacs, possibly the most able legal mind at the Conventions of 1897-98, was excluded from the Judicial Committee charged with writing the Australian Constitution. His humiliation at the hands of the Ultra-Federalists was shameful. The horse-trading that went on behind the scenes to

¹¹ Macintyre, Stuart (1997) *A Federal Commonwealth, an Australian Citizenship*, pp 9-10.

ensure that Charles Kingston was elected to the Presidency of these same Conventions was a sure way to effectively silence a radical-liberal voice. James Walker, the only delegate who was not a politician at the 1897-98 Conventions, was elected for his financial and economic expertise. Yet a position could not be found for him on the Financial Committee. These exclusions seem to be unimportant in the Deakinite story.

That the Australian Constitution is essentially silent on the issue of citizenship is not difficult to ascertain. It does not describe what a citizen is, or what their rights, duties and obligations were to be in the polity. In many ways, the Australian people are absent from the constitution which describes at length how the governor is to function but says little or nothing about those who are to be governed. Rather than reluctance on the part of the Constitution-makers to make policy for future Australians, as Deakinites claim, the absence of citizenship from the constitution was a deliberate political act.

Federation as Myth and Metaphor

Again, it is difficult to deny that Alfred Deakin's words and images have shaped the way that subsequent accounts of the federation movement have been told. Why his account has become the authoritative one above all others is somewhat perplexing. Maybe his casting of the central characters in these stories as heroes in search of the Holy Grail of federation, and the places at which important events occurred as 'sacred sites', has given the federation movement a mythical status. Consequently, Deakinites tell a story set in metaphorical overtones, located around a series of key events with a cast of heroic men. Shaping the federation story as a myth has become an ideal way for successive Deakinites to tell a contested story to a largely disinterested Australian public.

Federation was not a result of a revolutionary moment of nation-making. It was never a time of triumph against great odds, nor was the blood of the sons of the new Australian nation spilt on sacred Australian soil in the quest for federation. A story about a group of ordinary men writing a constitution for a pragmatic and practical people had to be dressed up in mythical robes. As eminent mythologist Joseph Campbell remarks, 'like dreams, myths are the production of the human imagination. Their images, consequently (though derived from the material world and its supposed history) are, like dreams, revelations of the deepest hopes, desires and fears, potentialities and conflicts, of the human will. Every myth, that is to say, whether or not by intention, is psychologically symbolic. Its narratives and images are to be read, therefore, not literally, but as metaphors'.¹²

The more I have researched the Deakinite account the greater have become my suspicions with respect to the stories they were telling. Although I am supportive of the anti-Deakinite viewpoint, the stories they tell are also inadequate for they fail to analyse several important issues. As already indicated, some anti-Deakinites have noted the involvement of influential Constitution-makers in the industrial confrontations of the 1890s. John Rickard and Peter Botsman, in particular, describe the actions of Barton, Deakin, Dibbs, McIllwraith, Griffith and Carruthers during these confrontations. Geoffrey Bolton devotes a couple of pages to Barton's actions during the Broken Hill strikes of 1892. Most of these accounts describe, rather than analyse or draw conclusions, as to how these actions could have influenced the outcomes of the Convention debates.

Class is another issue that is not fully analysed in many anti-Deakinite accounts. Although the stories told by Robin Gollan, Brian Fitzpatrick, Ian Turner, Bruce Scates and John Ward are clearly class-based, they have studied the working-class in

¹² Campbell, Joseph (2002) *The Inner Reaches of Outer Space: Metaphor as Myth and as Religion*, New World Library, Novato, California, pp 27-8.

isolation from those with which it shared a relationship: the middle-class. These authors have seemingly excluded the middle class from any active role in the historical processes at the time. Rather than an analytical expose of class relations within colonial society, they tell optimistic stories of radical and working-class achievement in building institutions. The Labor Party, the Trades and Labour Councils, arbitration and conciliation, and the fledgling welfare state, which emerged as a result of the growth in working-class consciousness that emanated from the social and economic crises of the 1890s, permeate these stories. John Rickard, Manning Clarke, Bob Connell and Terry Irving do, however, systematically examine the links between the working-class and middle-class, and the social and economic environment from which these arose.

Although anti-Deakinites highlight those who were excluded from the processes of constitution making – women, socialists, anarchists, non-Anglo men – few present in any detail the dissenting voices at the Conventions. A I Clark, H B Higgins, George Reid, George Dibbs, Charles Kingston and Isaac Isaacs all feared that the constitution they had helped devised was flawed and would encumber future Australians. It has been left to Fin Crisp, in particular, and Peter Botsman to explain how these voices have been silenced. As noted, to Crisp, a dogmatic and selective story of federation dominated by Ultra-Federalists Edmund Barton, Samuel Griffith, Henry Parkes and Alfred Deakin, and repeated by Bernhard Wise, John Quick and Robert Garran, infiltrated our historical subconscious: *their* campaign perspectives, *their* selection of incidents and detailing of the processes, *their* federal story – generally speaking – has held the floor for decades after 1901.¹³ Botsman has reinforced and expanded upon Crisp's analysis in his text, *The Great Constitutional Swindle: A Citizen's View of the Australian Constitution*.

¹³ Ibid, p 4.

When we look at the background and the political experience of the Constitution-makers it must also be emphasised that there was little or no self-consciousness in the exclusions practised by the Constitution-makers. They were exercising their common sense. They were merely exhibiting the social, political and economic sensibilities that they had forged over many years of public life. Many of the Constitution-makers had lead fulfilling and meaningful lives, actively participating at all levels of colonial life. Their great desire was that all Australians should share in the same privileged lives that they had been fortunate enough to have had. While this is understandable, it is also a convenient basis on which to compromise principle and position on issues that were in the interests of all Australians in favour of the interests of the middle class.

Structure of Thesis

My thesis is divided into six chapters. The first two chapters present opposing accounts of constitution-making and the Constitution-makers. In these chapters both the Deakinite and anti-Deakinite points of view are analysed at length. Chapters 3 and 4 explain the social, economic and political backdrop against which the constitution was written. Chapter 5 attempts to distil the essential Constitution-maker and ascertain how representative and qualified these men (there were no women elected or appointed to the Conventions) were for writing a constitution for the new Australian nation. Chapter 6 looks at some of the constitutional and legal materials that were available to the Constitution-makers as they set about their work in 1891. Some at the Conventions acknowledged that they had made compromises and concessions.¹⁴ Why these were made, and for what reasons, will be explored. Some of the *what ifs* of the federation movement will also be discussed and alternative possibilities to those that actually emanated from the Conventions will be offered.

¹⁴ Deakin, Alfred (1995) *And Be One People*, p xvi. Of Deakin (Deakin writes), it is unnecessary to say anything except that he subordinated himself by seconding rather than moving resolutions and smoothing away the differences that imperilled the federal purpose.

Chapter I, *The Deakinite Account of Constitution-Making*, is an analysis of the Deakinite account of federation and constitution-making. Central to this chapter is a short critique of Alfred Deakin and his disciples: the Deakinites. Deakin's influence on the federation movement cannot be underestimated. His account and his caricatures of several Constitution-makers have shaped many subsequent accounts of the federation story. Deakin was one of several Constitution-makers who would have federated with an undemocratic and illiberal constitution at any time after 1891. He was one of a group that L F Crisp referred to as the Ultra-Federalists.¹⁵

The villains in the Deakinite account are the anti-Billites, who opposed federation at every turn. To the Deakinites, they are the men of little faith. Another group, comprising liberals and democrats, looked to a more liberal and democratic constitution. They wanted more discussion and debate on the constitution as it stood in 1899.¹⁶ This group have also been marginalised in the Deakinite account. As already noted, to the Deakinites federation is a triumphal story of six disparate colonies overcoming enormous odds to form a great and proud nation. Although citizenship was not written into the constitution, for Deakinites, Australians have been citizens since colonial times and the absence of citizenship from the constitution is of little consequence. This was not a deliberate political act by the Constitution-makers but not an accidental one either. Rather it was a reflection of the constraints that derived from their position and of the requirements of the time.¹⁷

¹⁵ Crisp, L F (1990) *Federal Fathers*, p 2. Crisp maintains that histories of political movements and conflicts seem frequently to be written by and for the victors. In this process the victors' real or imagined opponents usually suffer a further, assuredly lasting and total defeat. So it was during the movement to Australian Federation in the 1890s. The diaries, books and speeches by politicians like Alfred Deakin and Bernhard Wise have firmly established the Federation movement in the terms and colours of the Ultra-Federalists. Their story, their selection of incidents, their evaluations and appraisals, and their personal and political enmities held the field for decades after 1901. The Federalist zealots are essentially 'the goodies', the Anti-Federalists upon the Federalists definitions and classifications are the 'baddies', the men of little faith.

¹⁶ Crisp, L F (1974) *Australian National Government*, Longman Australia Pty Ltd, Hawthorn, Victoria, Australia, pp 14-25.

¹⁷ Irving, Helen (1997) *To Constitute a Nation: A Cultural History of Australia's Constitution*, Cambridge University Press, Melbourne, p 2.

Chapter 2, *Exclusions from the Deakinite Account*, is an account of the refutation of the Deakinite account by those I call the anti-Deakinites. As noted, several influential Constitution-makers are excluded from successive Deakinite accounts. Often at odds with the Ultra-Federalists over issues of the democratic participation of the people in bringing about a fair and equitable nation for all Australians, these men looked to a more liberal and democratic constitution. Anti-Deakinites also claim that important ideas that were discussed at the Conventions were often excluded from the constitution, more for reasons of compromise, concession or political pragmatism than their suitability for the greater good of all Australians. The exclusion of citizenship from the constitution is but one example of this.

To anti-Deakinites, most women, many non-Anglo-Celtic men, Indigenous Australians, Asians and the working class were unable to participate in the federation movement. Consequently, they lacked representation at any of the Conventions. The voices of republicans, socialists, anarchists and other radicals were also effectively excluded from the Conventions and other meetings. With the loss of these voices, the chance to build a fairer and more inclusive Australian nation vanished forever.¹⁸ The question of whether the constitution was written for the benefit of the privileged few, at the expense of the many, is also explored in this chapter.

Chapter 3, *Class, Politics and Society*, is an analysis of class in Australia. To Deakinites, Australia has never suffered from the vagaries of class. Class was something that plagued Old World societies. Egalitarianism, equality and a fair go for all have been the distinctive features of the Australian landscape, or so Deakinites claim. Against this view, some anti-Deakinites have argued that class has been a pervasive force at all levels of Australian society since the arrival of the British in 1788. The economic structures that were put in place in the colonies by successive middle-

¹⁸ Scates, Bruce (1997) *A New Australia: Citizenship, Radicalism and the First Republic*, Cambridge University Press, Melbourne, pp 206-7.

class administrations were the greatest determinants of class consciousness in colonial Australia, anti-Deakinites claim. With colonial labour parties combining to form the Australian Labor Party after 1901, and with opposing political parties becoming known as anti-labour, politics in Australia had clearly formed along class-based lines. A central argument in this chapter is that prior to federation, the working-class was, for the most part, powerless politically.

Chapter 4, *Labor and Class Conflict*, is an overview of the political, economic and social milieu that existed in the lead up to the 1890s. Between 1860 and 1890 workers unionised to challenge employers for improvements in wages and working conditions. In the early-1890s, an economic recession ushered in a period of industrial confrontation between unions and an alliance of employers and the state. The ill-will generated by these had not been seen before in the colonies. Few were immune from the effects of these. Importantly, several Constitution-makers sided with employer groups and the state during these confrontations. The direct involvement of Barton, Griffith, McIlwraith, Dibbs, McMillan and Deakin in the strikes attests to this.¹⁹ The question of how such things would have affected constitutional outcomes becomes an interesting one to pursue. Most agree that the 1890s was a time of tumultuous upheaval, adjustment and change for all sections of colonial society. Central to this decade were the Great Strikes. These were defining events, ones that must take a central place in any complete account of Australian constitution-making.

Chapter 5, *Middle-Class Men*, distils the essential Constitution-maker. A discussion of the qualities these men (there were no women involved in writing the constitution) brought to the task of constitution-making is central to this chapter. The 1880 to 1890 period was a time of remarkable stability of colonial governments. Many of the same

¹⁹ Rickard, John (1976) *Class and Politics*, pp 22-3; Botsman, Peter (2000) *The Great Constitutional Swindle: A Citizen's View of the Australian Constitution*, Pluto Press Australia, Annandale, New South Wales, pp 15-16. Botsman describes Griffith as a complex character. During the 1880s Griffith was quite socially active, often siding with the workers in issues that were important for their well-being. However, during the 1890s Griffith 'changed sides', siding with employer groups to effectively crush the union challenge for a voice in Queensland colonial society.

politicians attended the meetings, conferences and federal conventions that began in 1883. Importantly, all but one delegate to both sets of Conventions had been a politician. All were professional men, with the majority trained in the law. Not surprisingly, 90% of the Constitution-makers had undertaken either secondary or tertiary education. From a religious perspective, all but six claimed Protestantism as their chosen faith. To John La Nauze, although most had no special advantages of birth and some had been unskilled labourers in their youth, none of the Constitution-makers at 1891 or 1897-98, could be described as a workingman. All were middle-class men.²⁰

A substantial part of Chapter 6, *Rethinking Compromises and Possibilities*, examines some of the 'what ifs' of the federation movement. Arguments about the absence of citizenship from the constitution and other compromises made by the Constitution-makers are central to this chapter. To me, successive Deakinite accounts have 'papered over' the absence of citizenship from the constitution although they acknowledge that citizenship was extensively discussed at the Conventions. It is also apparent that the Constitution-makers had more than enough constitutional and legal material available with which to successfully write a constitution for all Australians. Although many of the constitutions that were referred to at the Conventions included ideas on citizenship, the exclusion of citizenship from the constitution can seem to have been more about the compromises that the Constitution-makers made, than about anything else. The possibilities that may have eventuated had full citizenship rights been granted to *all* Australians are explored in the final section.

²⁰ La Nauze, J A (1972) *The Making of the Australian Constitution*, Halstead Press Pty Ltd, New South Wales, Australia, p 144.

Chapter 1 - The Deakinite Account of Constitution-Making

1.1 Introduction

Events that were to influence the course of Australian history took place during the 1880-90s. Yet the dominant accounts of constitution-making do not acknowledge the context within which the constitution was written. It is difficult to deny that these must have influenced the Constitution-makers as they began their work in 1891. Yet stories and accounts painting the federation journey in unfavourable colours are largely absent from the historical record. Some Constitution-makers are given more coverage and more positive profiles than others.²¹ These are rarely examined or analysed by Deakinites. This thesis is a defence of the claim that successive Deakinite accounts of constitution-making are skewed representations of the events, organisations and individuals actively involved in bringing about federation.

As will be discussed at length later in the chapter, those who spoke out against or doubted the suitability of the constitution, for whatever reason, have largely been removed from the dominant accounts of constitution-making. More often than not they have been 'character assassinated' or held up to public ridicule by Alfred Deakin, the master narrator of the Conventions and federation movement and by his latter-day disciples.²² Ironically, Deakin and his disciples have portrayed those who spoke in favour of the constitution, often the narrow-minded, short-sighted, conservative Constitution-makers, as the heroes, the patriots, the 'true' Australians. Deakin's short, yet detailed biographies of several Constitution-makers and his descriptions of the Conventions and Conferences he attended have influenced many accounts of constitution-making. Deakin's character sketches, his narratives, his rhetoric have

²¹ Macintyre, Stuart (1997) *A Federal Commonwealth, an Australian Citizenship*, p 1. In seeking answers to these questions we might begin to understand why Australians have 'lost interest' in political issues since 1901, witnessed in the apathy shown toward issues of citizenship and civic participation within the polity.

²² Deakin, Alfred (1995) *And Be One People*. See Deakin's biographies and descriptions of several influential Constitution-makers, along with his ideas of events that took place during the Constitutional Conventions of 1891 and 1897-98. Of importance, the influential historian of constitution-making, John La Nauze, appears to have become bedazzled by Deakin's masterful story telling.

marked out not only his understanding of the historical process in which he was an active participant but also have given his 'disciples' (Deakinites) a means for understanding the complex and torturous processes of Australian Federation.

As argued throughout this chapter, in his personification of the federal story if not immediately in his formulation of its paternity, Deakin's unpublished memoirs anticipated the way that federation became codified in public memory. The long and tortuous process of federation was rendered intelligible by turning it into a narrative set around a series of key events. For coherence and dramatic momentum the narrative dwelt on the activities, and words of, several notable figures. To explain the complex issues at stake it relied on memorable metaphors such as Service's metaphorical 'lion in the path' to describe the tariff problems of 1890. Hackett's prediction in 1891 that 'either responsible government would kill federation, or federation would kill responsible government', served as a cue for the mysteries of a hybrid constitution.²³ Henry Parkes' the 'crimson thread of kinship that runs through us all'²⁴ and Barton's claim that Australians would finally 'have a nation for a continent and continent for a nation' once federation was achieved merely added to the mysticism, the magic of the Deakinite account.²⁵

A story about federation told in metaphors and clothed in myths was constructed; from the aphorisms and idiosyncrasies of the chief actors, grew a myth at once intimate and momentous. As noted in the Introduction to the thesis, this process was apparent as early as 1916, in Ernest Scott's textbook, *A Short History of Australia*. For the making of the Australian Commonwealth quickly became an integral part of civics education for successive generations of Australian schoolchildren. It was also practised

²³ Ibid, p xxvii.

²⁴ La Nauze, John (1972) *The Making of the Australian Constitution*, p 11.

²⁵ Hirst, John (2000) *The Sentimental Nation: The Making of the Australian Commonwealth*, Oxford University Press, Melbourne, p 201. As Hirst notes, Federalists believed that the island continent (Australia) was the natural boundary of the new nation. Hence Barton's comments: (upon Australia federating) 'for the first time in the world's history, there will be a nation for a continent, and a continent for a nation'.

topographically, as names of the Federal Fathers were inscribed on the suburbs of the Australian Capital Territory.²⁶

The central claim of my thesis is that many accounts, analyses and histories of Australian constitution-making and federation have been selective in their descriptions of the events and the organisations and individuals involved, leading to the misrepresentation of these seminal episodes in Australian history. This misrepresentation has occurred as a consequence of the privileging of, what I label, the Deakinite account of constitution-making and federation over all others. In this chapter I will examine those accounts by historians, political scientists and analysts that manifest a Deakinite perspective in their descriptions of the events of the journey to federation. It is constructed around ten sections, beginning with a short critique of Alfred Deakin and his disciples: *Deakin and Deakinites*.

The second section entitled *Federation at any Cost* is an account of those Constitution-makers who would have federated with an undemocratic and illiberal constitution (the Ultra-Federalists²⁷) any time after 1891. As can be expected, several viewpoints on key issues existed amongst the Constitution-makers. The following section *Ultra-Federalists, Anti-Billites, Liberals and Democrats* provides an overview of these viewpoints. The next three sections, *Heroes, The Deakinite Vision* and *The Deakinite People*, trace both the major characters and the 'vision' that was central to the Deakinite account and the organisations, individuals and groups who promoted the constitution to the Australian people. *Enemies* is an overview of those Constitution-makers who disagreed with the Ultra-Federalists over aspects of the constitution they had all devised. To Deakinites these were, and are, men of little faith.

²⁶ Ibid, p xxvii.

²⁷ Crisp, L F (1990) *Federal Fathers*, p 2.

The compromises that were made such as that with respect to citizenship, seem too neat and too systematically in favour of some interests and against others.

Compromises had to be made but whether all of them had to be made and, more importantly, how several leading Constitution-makers could be so ready to compromise their principles on the road to federation, remain problematical in the Deakinite account. A section titled *Ultra-Federalists and Compromise* is a summary of these compromises. *The Journey to Federation* is a brief history of the federation story in the Australian context. To Deakinites this is a triumphal story of six disparate colonies overcoming the odds to form a great and proud nation.

The Compromising of Citizenship is an analysis of the constitutional lacuna with respect to citizen and citizenship. To Deakinites, Australians have been citizens since colonial times, and the absence of citizenship from the constitution is of little consequence to them. This was neither a deliberate political act by the Constitution-makers nor an accidental one. Rather, it was a reflection of the constraints that derived from their social and economic position and to the events of the time. The story that the sections in this chapter tell is that the Deakinite account of constitution-making is a partial and biased interpretation of the events, organisations and individuals who brought about federation. The tale begins with Alfred Deakin and his disciples. It is to them that I now turn.

1.2 Deakin and Deakinites

'Affable' Alfred Deakin believed in the destiny of an Australian nation.²⁸ He was the publicist and orator who most made people believe that Federation would happen. He was the most enthusiastic and passionate of the Ultra-Federalists, having been told by a spiritualist on 6 August 1880 that he was 'the boy', the one destined for greatness not only in his native Victoria but also in the new Australian nation. Deakin believed in the

²⁸ Botsman, Peter (2000) *The Great Constitutional Swindle*, p 35.

great prophecy of an Australian federation but was more interested in achieving the goal of nationhood than in improving the machinery of government and defining the political agent to function within it.²⁹ Although not the 'leader' that Edmund Barton may have been, the enormity of Deakin's literary output has become the centrepiece to, or voice of, the Conventions, the constitution and federation. Deakin's account strongly favoured the Ultra-Federalists.³⁰

Those who spoke against Deakin's 'vision' were (and still are) denigrated and pilloried for their viewpoints. Deakin's record of events has had strong support from influential Deakinite historians and analysts since 1901. John Quick and Robert Garran's (both were present at the 1897-98 Conventions) *The Annotated Constitution of the Australian Commonwealth* was a mammoth undertaking in constitutional and federal history. It is still the quintessential text on the federation movement. Bernhard Wise was another Constitution-maker who set down his personal memories of the federation movement. Written in 1913, *The Making of the Australian Commonwealth, 1889-1900*, was also strongly supportive of the roles that Barton, Griffith, Parkes and Deakin had played in bringing about federation. Ernest Scott was mentioned earlier in the chapter.

During the 1940s, Keith Hancock perpetuated the Deakinite myth, when he wrote that:

*Australia had achieved sovereignty without the pain and loss of separation. Australia belonged to a family, a Commonwealth of democratic nations. Each member of this family declares its independence; each, proclaims its interdependence. All the cleverest professors of the nineteenth century argued that it could never happen. They proved to their own satisfaction that national freedom must inevitably mean imperial disruption. But something quite different has happened, and is still happening.*³¹

To the likes of Hancock, six disparate Australian colonies had formed into a democratic nation under the tutelage of the British Crown, fitted with an active culture of citizenship in which the tradition of a splendid past is carried forward into the future. From the late-

²⁹ Ibid, p 35.

³⁰ Crisp, L F (1990) *Federal Fathers*, p 2.

³¹ McKenna, Mark (1996) *The Captive Republic*, p 216.

1960s, highly esteemed Australian historians John La Nauze, Helen Irving and John Hirst, sociologist Bob Birrell and political scientists Brian Galligan and John Chesterman have also perpetuated the Deakinite heritage. They too take the story of the Ultra-Federalists as their own. Their triumphal versions of constitution-making and federation are clear reflections of Alfred Deakin's accounts.

The Deakinites are not necessarily pro Alfred Deakin the individual, rather they are *pro a Deakinite* account of constitution-making and federation. Deakin's account, however, may have been purely a device for the promotion of federation. That is, Deakin might have deliberately misrepresented the process to gain support for federation.

Deakinites may have misread Deakin by failing to correctly historicise his works.

Schemes about federation had been aired since the 1850s, yet had met with little public support. The 1890s appear to have been little different. Deakin seems to have set out his account chronologically, recounting a linear historical process of British colonies gradually moving toward independence. This was done to give some semblance of order to his account, rather than describing the failings, blunders and imperfections of the federation journey. Undeniably, Deakin was a highly influential public figure during the 1880-1890s and his accounts of the federation process would affect the public's perception and reception of federation.

It is estimated that Deakin wrote about a million words on constitution-making and federation.³² He wrote articles for public reading, particularly for newspapers in both Britain and Australia. Deakin had a long working relationship with David Syme, owner and editor of the Melbourne-based *Age* newspaper. The *Age* was highly influential on public opinion during the Constitutional Conventions (Conventions) of the 1890s, and particularly for the elections for the delegates to the 1897-98 Conventions. The *Age* not only provided Deakin with an outlet for his ideas but also enabled him to advance

³² Deakin, Alfred (1968) (edited by J A La Nauze) *Federated Australia: Selections From Letters to the Morning Post 1900-1910*, Melbourne University Press, Melbourne, p xv.

his public profile. Mystical and philosophical accounts of his private thoughts and feelings have merely added to the mystique of Alfred Deakin the man.³³ A million or so words by any commentator or author will surely have a profound effect on subsequent interpretations of events; in this case constitution-making and federation.

Deakin's accounts of the Conventions, his biographies of some Constitution-makers, his descriptions of events in London (1900) when the Commonwealth of Australia Constitution Bill was being debated in the British Parliament, and a selection of letters (published anonymously) to the *Morning Post* newspaper (London 1900-1910) have all been highly influential on subsequent accounts of constitution-making and federation.³⁴ Indeed, Deakin's story has become the definitive account of constitution-making, even though it was *his* story, recounted and filtered through *his* ideological, philosophical and cultural sensibilities. His epic accounts of a heroic struggle to achieve federation on the part of a group of patriotic men who spent endless hours, often at personal and financial loss to themselves and their families, in pursuing federation has become central to stories of Australian constitution-making and federation.

It is difficult denying that Deakin's 'disciples' have re-imagined, reinvented and retold Deakin's stories in their own words.³⁵ For example, in his seminal text, *The Making of the Australian Constitution*, John La Nauze draws extensively from Deakin's words. As La Nauze says:

Alfred Deakin had the energy, ability and historical sense to attempt to preserve the Constitution-makers and their successors for posterity, in the working of the Conventions. He was writing seven years later [after the Convention of 1891], but his memory was vivid, and a number of

³³ Gabay, Al (1992) *The Mystical Life of Alfred Deakin*, Cambridge University Press, Melbourne. Gabay's text is a biographical portrait of Deakin's mystical, religious and philosophical ideas.

³⁴ Deakin, Alfred (1968) *Federated Australia* (edited by J A La Nauze). On 3 January 1901 the London *Morning Post* (newspaper) published the first of a series of exceedingly acute and well-informed letters from its special Australian correspondent, dealing with the political and general affairs of the new Australian Commonwealth. The anonymous correspondent was Alfred Deakin.

³⁵ For example see: La Nauze, John (1972) *The Making of the Australian Constitution*; Wise, B R (1913) *The Making of the Commonwealth of Australia*, Little and Brown, London; Quick, John and Robert Garran (1900) *The Annotated Constitution of the Australian Commonwealth*, Legal Books, Sydney; Irving, Helen (1997) *To Constitute a Nation*; Birrell, Bob (2001) *Federation: The Secret Story*, Duffy and Snellgrove, Potts Point, New South Wales, Australia; Chesterman, John and Brian Galligan (eds) (1999) *Defining Australian Citizenship: Selected Documents*, Melbourne University Press, Melbourne; Hirst, John (2000) *The Sentimental Nation*.

*those he portrayed were his colleagues in the last stages of the work begun in 1891. No later study can replace his contemporary portraits: he knew all these men, and for enjoyment as well as instruction the student must read him. Allowing, here and there, for an element of caricature, and in a few cases temperamental antipathy, his verdicts seemed to historians remarkably just.*³⁶

La Nauze also seems to accept Deakin's version of events over those of other Constitution-makers. For example, Deakin's words take precedence over Joseph Abbott's in the intrigues over the Presidency of the Adelaide Convention of 1897. To La Nauze, 'Deakin's account seems then to be in essentials accurate, though his dramatic habit of writing heightened his description of the intensity or personal feelings involved, and in one respect he appears to have relied on deduction rather than direct knowledge, and so fallen into error'. Despite presenting Abbott's side of the argument in some detail, La Nauze does not dwell on the fact that Deakin's account may have been wrong – which he actually states could have been the case.³⁷

Similarly, in *Federation: The Secret Story*, Bob Birrell uses Deakin's words extensively. A survey of the index reveals that the references to Deakin equal those of all other Constitution-makers. More importantly, influential Constitution-makers like A I Clark, Charles Kingston, Richard Baker, Samuel Griffith and Richard O'Connor do not receive any coverage. (It could be argued that this is a very secret story!) In many ways, Birrell's book is a defence of Deakin's actions during the 1880s and 1890s. However, he is somewhat selective in his choice of Deakin's activities at the time. Although Birrell correctly notes Deakin's work as a highly effective social reformer in Victoria in the 1890s, his parliamentary achievements, and his good work with the Australian Natives Association, Birrell conveniently omits Deakin's role in the economic catastrophe that struck Melbourne (in particular), during the early 1890s.

His [Deakin's] reaction to these reverses was a decision to take no further part in executive government, though he remained an ordinary Member of Parliament, supplementing his income by returning to the Bar. This was a genuine sacrifice since he could have taken Cabinet office several

³⁶ La Nauze, John (1972) *The Making of the Australian Constitution*, p 29

³⁷ *Ibid*, pp 106-7.

*times during the 1890s. He was still in his thirties and with a young family (three daughters); the income would have been valuable. He instead opted for a life of commitment to the causes he cherished foremost of which was Australian nationhood.*³⁸

Birrell fails to mention that Deakin resigned from public life more through an act of personal penance than for other reasons. To Birrell, Deakin's act was one of extreme personal sacrifice. This it was. What is not explained in detail, however, is that Deakin was an influential member of the ministry that oversaw the economic shenanigans that lead to the financial collapse that visited misery and hardship on so many Victorians.

Birrell's spirited and stinging rebuttal of Manning Clark is also instructive. (Clark believed that Deakin had, in his later years, discarded the radicalism and idealism of his earlier years for the trappings of the bourgeois lifestyle.)

*The fifth volume of his [Manning Clark] history is built around the juxtaposition of Deakin against [Henry] Lawson, with Lawson representing what Clark sees as the radical potential of Australian life and Deakin its antithesis. When his narrative reaches the late-1890s Clark begins to refer to Deakin as Mr Deakin, implying a certain bourgeois stuffiness. This is an unfair, ad hominem literary device surely calculated to prejudice readers against Deakin's achievements.*³⁹

While Birrell argues that Clark sought to tarnish Deakin's image, it is difficult to deny that this was Deakin's purpose in writing caricatures of several Constitution-makers, several of which were close to parodies.

John Hirst is another who uses Deakin's words and caricatures to good effect. The title of his eminently readable text, *The Sentimental Nation: The Making of the Australian Commonwealth*, along with many of the chapter titles ('Destiny', 'Identity', 'Revival', 'Beginning', 'Ways and Means'), reflects the mystical and metaphorical nature of Alfred Deakin's work. The initial words in the first chapter, 'Destiny', are indicative of this.

God wanted Australia to be a nation. Among the thousands of federalists who believed this were two men who worked hardest to achieve it. They received their due reward. Edmund Barton became the first Prime

³⁸ Birrell, Bob (2001) *Federation: The Secret Story*, p 150.

³⁹ *Ibid*, p 150.

Minister of the new Commonwealth and Alfred Deakin the second. God and success: these may appear to make this an un-Australian story, but it became so in the end, for few Australians now know who Barton and Deakin were, and none believes God played any part in federation. Among historians it is a common view that the creation of the Commonwealth was not much more than a business transaction. It is no surprise that Deakin believed he was doing God's will in working for federation. To fathom the divine, to discover the purpose for the world and his duty in it, were the preoccupations of his life.⁴⁰

Leading federalists Deakin, Barton, Parkes, Kingston, John Forrest and George Reid, as expected in a work like this, receive extensive coverage. What sets Deakin apart from the other Constitution-makers, is the use by Hirst of Deakin's caricatures. These 'set pieces' do enhance Deakin's authority as a chronicler of the federation movement and in particular, the Conventions. When these are combined with extensive accounts of Deakin's activities during the 1880s and 1890s, it is difficult to deny that Deakin's words and images have guided and coloured Hirst's work.

Helen Irving's *To Constitute a Nation: A Cultural History of Australia's Constitution* also gives extensive coverage to the likes of Quick, Garran, Parkes, Reid, Wise and Barton. Again, Deakin is given significant coverage. Irving concurs with the heroic and triumphal account of federation put forward by both the Ultra-Federalists and the Deakinites. As with John Hirst, Irving's story telling is often told in metaphor and symbolism. Her description of the advent of federation at the turn of a new century is illuminating.

As with other great temporal milestones (meaning nothing in themselves, but symbolically highly charged), a new century is experienced by many as a time when change is both possible and expected, when the routine and predictable may be set aside. Although the fin de siècle was not the cause of Federation as such (there was no single cause), it encouraged the will to achieve Federation to emerge. Along with faith in progress and the complex modernising processes shared by all "Western" nations in this period, it allowed people to set aside the doubts and suspicions that might otherwise have cautioned against these. The late 1880s and the early 1890s in Australia were, it has been argued, a "Utopian moment", a time of both optimism and dismay, of disillusionment with old constitutional relations and of confidence in the local ability to forge new ones.⁴¹

⁴⁰ Hirst, John (2000) *The Sentimental Nation*, p 4.

⁴¹ Irving, Helen (1997) *To Constitute a Nation*, p 212.

The following passage suggests that Irving uses Deakin's words as guides, or touchstones, for her own works.

“Regarded on the whole” [said Alfred Deakin], “it is safe to say that if ever anything ought to be styled providential it is the extraordinary combination of circumstances, persons and their most intricate interrelations that culminated in federation”. For Deakin, who stood trembling at the ritual moment of transition from one state of existence to another, this was his finest hour. If the crowd was not too bothered with transcendence and spiritual greatness, those who witnessed and described the event were keen to note this very attitude as yet another affirmation of Australianness.

Although many Constitution-makers and colonial politicians contributed greatly to the federation movement, any person with Deakin's reputation, both then and now, is virtually impossible to dismiss. While there is truth in Deakin's words, this ought not to mean that his one-sided, partisan story telling should become *the* quintessential account of the making of the Australian Constitution. (Attempting to argue against the partisan, nationalistic and emotional description of events surrounding the ANZAC tradition is a similar type of exercise.) Telling a differing story is always going to be difficult for historians, analysts and theorists, particularly one who is not convinced by the Deakinite account.

In their accounts Deakin's disciples, the Deakinites, can be accused of highlighting those events, organisations and individuals that suited their philosophical or ideological standpoints. In Deakinite accounts, the constitution, in particular, is viewed as sacrosanct, not to be changed. This, however, was not the intention of those liberal-minded Constitution-makers who wanted a living and organic constitution, one that would change with the needs of the Australian people over time. H B Higgins, Isaac Isaacs, Charles Kingston, John Cockburn and George Reid were Constitution-makers who shared this viewpoint. Those who have criticised the shortcomings of the constitution or the federation project (herein referred to as anti-Deakinites) are often criticised as being unpatriotic, un-Australian, or ill-willed. Rarely mentioned in

Deakinite accounts are the 'compromises' several influential Constitution-makers made as they wrote a constitution for the new Australian nation.

1.3 Federation at any Cost

Compromises were accepted as necessary on a number of questions. The most pressing issues confronting the Constitution-makers included: states' rights versus a national interest, protection of industry versus free trade, the creation of two houses of parliament, fair and equitable election to these institutions, how to describe the political agent, and whether legal appeals should rest with the Privy Council in London or with an Australian High Court.⁴² It is reasonable to expect that these issues would have been contentious ones at the Conventions, however, the reasons why principled positions were compromised by leading Constitution-makers are unclear. How and why successive Deakinites have papered-over compromise and concession are also open questions. Arguably, this has more to do with the way they tell their stories than with anything else.

For the best part of the twentieth century, Deakinites have looked back to the 1890s to discern the origins of events that acted as catalysts in the establishment of the Australian Constitution. To them, the 1890s were a golden age past, a time of progress when six disparate colonies combined for the greater good. They have conveniently by-passed or overlooked the social, economic and political conditions in which these events occurred. All too often theirs are triumphal stories of positive progress from convict colonies to responsible and democratic government and associated constitutions during the 1850s, to a decade of constitutional deliberation in the 1890s, to the realisation of the most democratic constitution yet written.⁴³

⁴² Botsman, Peter (2000) *The Great Constitutional Swindle*, p 36 Deakin openly asserted that he had often ceded his chosen viewpoint to the majority. In this, Deakin presents himself as having chosen federation at any cost and at any time (after 1891).

⁴³ Irving, Helen (1997) *To Constitute a Nation*; Birrell, Bob (2001) *Federation: The Secret Story*; Hirst, John (2000) *The Sentimental Nation*; Headon, David and John Williams (2000)(eds), *Makers of Miracles: The Cast of the Federation Story*, Melbourne University Press, Melbourne. Each of these texts tell heroic stories of Australia's triumphal journey to

Conservative, states' rights men often outmanoeuvred liberals and democrats with a national vision. With liberals (like Deakin) often conceding and compromising to the states' rights men it calls into question the very point of federation.

In these accounts events that are favourable to the federation journey are given precedence over those critical of it. The constitution is viewed positively by Deakinites as a sound guide for the future. Men who called for a more democratic and liberal constitution and for more careful consideration of the needs of *all* Australians are rarely considered. In Deakinite accounts the people are central agents in the creation of the new Australian nation. Who the people are is rarely specified by them. Citizens are subjects and subjects are citizens. Most importantly, the prolonged and violent industrial confrontations of the 1890s also get little coverage in Deakinite accounts.

The fact that several influential Constitution-makers were actively involved in these confrontations, on the side of employer groups, is rarely mentioned by Deakinites. Deakin, Barton, Dibbs, McMillan, Griffith and McIlwraith were heavily involved in bringing out the troops and their guns against striking unionists.⁴⁴ A seemingly conflict free, popularly heroic and classless account of events is advanced by Deakinites, while the industrial, political and social upheavals of the 1890s are reduced to mere footnotes. It is difficult to deny that these accounts are written from a middle-class

federation. Rarely are issues of class, industrial conflict, conflict and exclusion at the Conventions, or inequality and injustice, discussed by these authors.

⁴⁴ Rickard, John (1976) *Class and Politics*, p 23. According to John Rickard, the apostle of Victorian liberalism (Deakin) later made a point of accepting, indeed claiming, responsibility for calling out of the militia against striking unionists in Melbourne during the 1890-91 industrial action. Rickard also notes that the Deakinite "Father of Federation", Sir Henry Parkes, was moved to claim that 'the state of things is little short of a revolution', during the 1890-91 waterfront strikes. Fitzpatrick, Brian (1944) *A Short History of the Australian Labor Movement*, Wilke and Company, Melbourne, p 79. Thomas McIlwraith, Queensland Treasurer during the strikes of 1890-91, squatter and active member of the Federated Employers' Union of Queensland, was another Constitution-maker (1891) directly involved in the strikes. Botsman, Peter (2000) *The Great Constitutional Swindle*, p 23. Acknowledged by his peers as Leader of the 1891 Convention, Griffith directed state-sponsored action against striking shearers and labourers while devising the Australian Constitution in Sydney during 1891. Crisp, L.F (1990) *Federation Fathers*, pp 83-99. George Dibbs, Premier of New South Wales in 1885, 1889 and between 1891-1894, and Constitution-maker (1891), not only brought out the troops against striking mining unionists, he was also heartless in his treatment of them, goading their leaders with hard labour for lengthy periods, having them charged with unlawfully conspiring against the state and riotous behaviour.

perspective; for the working class receive scant coverage or analysis. Thus it is not surprising that Deakinite accounts rarely mention class in Australian colonial society.⁴⁵

1.4 Ultra-Federalists, Anti-Billites, Liberals and Democrats

In Deakinite accounts, Ultra-Federalists, Constitution-makers who would have voted in favour of the constitution from 1891 onwards, no matter how flawed it may have been, are at the forefront of debates over federation and the constitution. Deakin, Barton, Quick, Garran, Griffith, Parkes and Wise belonged to this group. Many are represented as foregoing financial gain or career advancement, suffering personal and relationship breakdown, and spending numerous weeks and months away from home while spreading the federal message. Curiously, Ultra-Federalists believed that they had been instrumental in creating the most democratic and liberal constitution yet written, though it was about how the governor would govern, with little mention of those who were to be governed. (This must have been how the Ultra-Federalists reconciled themselves to the compromises and concessions they had made, often on issues of principle, on the road to federation.) Their commitment to the federal cause cannot be questioned. Best described as federalist zealots, this group emerged as the 'good guys' in successive Deakinite accounts.⁴⁶

Directly opposing the Ultra-Federalists (in their accounts) were the anti-Billites, Constitution-makers who opposed the constitution because it was too liberal and/or too democratic. Anti-Billites believed in the pre-eminence of states' rights and could see

⁴⁵ It is difficult to find a Deakinite account of constitution-making or federation that takes into account the effects of class on colonial society. Seemingly, class was a relic of the Old World societies of Europe and Britain. The Indexes in the following books reinforce this point: La Nauze, John (1972) *The Making of the Australian Constitution*; Irving, Helen (1997) *To Constitute a Nation*; Chesterman, John and Brian Galligan (eds) (1999) *Defining Australian Citizenship*; Hirst, John (2000) *The Sentimental Nation*. Although Bob Birrell does mention class in his book, *Federation: The Secret Story*, he downplays the effects of class on Australian society. Birrell believes that class was 'invented' by a group of left-wing authors writing during the 1950-60s. Bolton, Geoffrey (2000) *Edmund Barton: The One Man for the Job*, Allen and Unwin, Sydney, p 10. Bolton shows that Barton was directly involved on the side of the state during the strikes at the Broken Hill mines. Bolton also questions whether Barton was attempting to quell the beginnings of class conflict in colonial society. He was not alone in this thinking; many middle-class men held the same views. Galligan, Brian (1995) *A Federal Republic: Australia's Constitutional System of Government*, Cambridge University Press, Melbourne. Although Galligan does mention class in the index to his book, class is analysed in the context of ancient Greek societies at the time of Aristotle, the Roman republic at the time of Julius Caesar and the issues of class that the American Founder Fathers were grappling with.

⁴⁶ Crisp, L F (1990) *Federation Fathers*, p 3.

only danger in the emerging centralised, Commonwealth Government. Their major fear was the loss of the power, wealth and authority that had been built up over many decades. Conservative men of property (and many colonial Legislative Councillors), like McMillan, Braddon, Want, Lyne, Zeal, Baker, Symon and Fraser comprised this group. These men pursued a new political framework that would accommodate the further development of Australian economic, political and social life along firmly established and accepted (that is, colonial) lines. Unsurprisingly, anti-Billites receive little or no coverage in Deakinite accounts.⁴⁷

Although some in the Old World at the time believed Australia to be a great social and political experiment, anti-Billites saw federation as an expedient creation of an extended governmental machinery and in no sense as a facilitation of major social change, much less any form of social or political revolution. As expected, they have been portrayed in the historical record as ‘enemies’ of the Australian nation, and men of little faith. To political scientist Fin Crisp, this group stole away and licked their wounds in silence; they certainly did not set down their version of the whole affair for posterity.⁴⁸ Fortunately, commentators like Crisp have revived debates about the federation journey, giving the excluded a chance to ‘tell their story’.

In between anti-Billites and Ultra-Federalists were some forward-thinking men who looked for a more democratic and liberal constitution for the Australian people. Most possessed a political liberalism similar to Deakin’s. This group were more cautious than Deakin in their approach to the constitution, however. They could see flaws in it and were prepared to spend further time making it a more inclusive document. Such men – significantly, professional men, not pastoralists, merchants or businessmen – spoke during the Conventions and later in colonial parliaments for an Australian democracy. In the absence of a working-class voice at the Conventions, these men

⁴⁷ Ibid, p 3.

⁴⁸ Ibid, p 3.

spoke on their behalf. This group have fared little better than have the anti-Billites. Their voices are but a whisper in Deakinite accounts, although they had much to offer the nation.⁴⁹

In this group was the brilliant legal scholar, future High Court Judge and Governor-General, Isaac Isaacs. After federation, Isaacs sought to rectify anomalies in the constitution he assisted in devising. During the referenda of 1898-99, radical liberal H B Higgins spoke to the electorate about the human consequences and potentialities of the new Commonwealth Government. Higgins could see only a flawed, unsuitable constitution for the Australian people. He voted against it in 1899. George Reid, the Constitution-maker who presented arguments both for and against the Constitution Bill to Australians, was another who sought a more democratic constitution. Although Reid voted in favour of the Constitution Bill, he has been pilloried by Deakinites, dubbed 'Yes-No' for being an equivocator on the issue of federation.⁵⁰

George Dibbs dreamed of a unified Australia nation free from the pettiness and squabbling of narrow-minded, self-interested, states' rights men. Despite Dibbs' national vision, John La Nauze described Dibbs as a nuisance, an inveterate interrupter during the 1891 Convention.⁵¹ Another was Charles Kingston, long-serving South Australian Premier and attendee at both sets of Conventions. Kingston was a radical liberal who looked for an active culture of citizenship and a fully functioning democracy for the Australian nation.⁵² Men like Reid, Dibbs and Kingston are rarely commended by dedicated zealots. In the case of these men, they were warmly, even bitterly, resented by the often insufficiently pragmatic and critical Ultra-Federalists.

⁴⁹ Ibid, p 3. As Crisp notes, who, indeed, can now recite the names of three prominent anti-Billites of the 1890s? Henry Norman MacLaurin and J H Want, and even W J Lyne, are quite forgotten – at any rate as Anti-Federalists- save by a few specialist historians. By and large, the anti-Billites did not set down their versions of events for posterity.

⁵⁰ McMinn, W G (1989) *George Reid*, Melbourne University Press, Melbourne, p 128. McMinn noted that if Deakin had looked carefully at what Reid had been doing and saying in New South Wales since 1893 he might have been able to see what Reid was attempting to achieve: to secure the interests of his colony above others, along with the implementation of a liberal and democratic constitution for all future Australians. Reid was not, as Deakin probably thought or hoped, a clone of Henry Parkes.

⁵¹ La Nauze, John (1972) *The Making of the Australian Constitution*, pp 40-1.

⁵² Unlike John La Nauze, Fin Crisp held Kingston in high esteem. La Nauze seems to have been duped by Deakin's story telling.

Liberals and democrats shared something of the national and federal visions of the Ultra-Federalists but were less willing to rush to federation. They did not see themselves as being obstructionist in registering their objections to the constitution, rather they believed that they were constructively criticising a document that they thought was unsuitable for the people of a new Australian nation. Though they spoke of their concerns about the constitution presented to the Australian people in 1898-99, their story has been marginalised in successive Deakinite accounts. Rarely mentioned by Deakinites are the articles written, and addresses given, against the Constitution Bill, by H B Higgins.⁵³ Nor are the reservations A I Clark held towards the Constitution Bill set out for all to see.⁵⁴ An exploration of how and why this occurred sheds fresh light on an often-told, yet deeply flawed, story.

Deakin clearly identified the heroes of federation in his writings. As with other myths (the Deakinite account is no more and no less than a myth), the heroes, their visions, their travels and their pursuits of the Holy Grail (in this case federation) are central themes. A sacred text explained the journey the people would have to undertake to achieve the dream of nationhood. Unsurprisingly, successive Deakinite accounts are replete with these same heroes. It is to them that I now turn.

1.5 Heroes

Central to the Deakinite myth are the heroes, the Ultra-Federalists, the men who pursued the 'Holy Grail' of federation. Their story is one of sacrifice for the greater good of all Australians; they willingly gave up personal, financial and political gain, along with the pleasures of familial life, to achieve this end. The heroes are colourful characters, befitting a story of mythic proportions. As noted, Deakinites have rendered the long and tortuous process of federation intelligible by turning it into a narrative set around a series of key events. Replete with memorable metaphors, meetings,

⁵³ Higgins, Henry Bourne (1900) *Essays and Addresses on the Australian Constitution Bill*, The Atlas Press, Melbourne.

⁵⁴ Botsman, Peter (2000) *The Great Constitutional Swindle*, p 31. Clark abstained from voting for the Constitution Bill because of its continuing imperfections and flaws.

characters and images, successive Deakinites have developed a foundation myth for the federal journey, complete with sacred document, the constitution. In Deakinite accounts, (not surprisingly) Alfred Deakin is the central character. Barton is portrayed as the leading prophet. Earlier committed federalists are also revered.

In the beginning, committed federalists gathered at colonial conferences and meetings to discuss ideas on national union. As past federalists knew, national union emanated from external threats. Australian federalists also looked to these as catalysts. In 1883 Thomas McIlwraith, then Queensland Premier, threatened to annex New Guinea, suspecting the Germans might have designs on it.⁵⁵ In the same year, James Service, then Victorian Premier, asked Britain to annex the New Hebrides after French convicts were sent to these islands. The Pacific Islands became the external threat early federalists had hoped for. 'Federation and all the islands' became Service's catch-cry. These threats, though real, failed to garner support for national union.⁵⁶ Other voices from the federalist wilderness had to be heard before national union could take hold among the people. Enter Henry Parkes, the Father of Federation⁵⁷.

Henry Parkes is something of a legendary figure whose role in federation has taken on mythic proportions. Parkes' conversation with Lord Carrington in the Colonial Secretary's office in Sydney on 15 June 1889, after the weekly meeting of the Executive Council, has also taken on these proportions. Parkes' claim that he could confederate these colonies in twelve months is the stuff of legends. Carrington's reply, 'Then why don't you do it? It would be a glorious finish to your life', merely adds to the myth. Possessor of a healthy ego, Parkes claimed that the first movement worthy of the noble object of bringing all Australia under one national government arose from his

⁵⁵ Hirst, John (2000) *The Sentimental Nation*, pp 66-7.

⁵⁶ *Ibid*, pp 66-7.

⁵⁷ *Ibid*, Chapter 5. In this chapter, titled *Prophet*, Hirst acknowledges Parkes was the Father of Federation. The chapter title itself lends itself to the mythical nature of Hirst's magnificent account of the federation story.

initiation in October 1889.⁵⁸ He was referring to a Brisbane visit to sell his ideas on national union after a negative report about colonial armed forces.⁵⁹ To Deakinites, Parkes' Tenterfield Oration marks the beginning of the journey to federation.

The 'Tenterfield Oration' refers to a speech that Parkes delivered at a banquet attended by eighty notables at the local School of Arts at Tenterfield (just within the New South Wales border). Really, the Tenterfield Oration was a provincial salute to a visiting premier and previous parliamentary representative. A somewhat bland speech on his government's achievements and the state of colonial defence forces ended with a proposal for an inter-colonial conference on federation.⁶⁰ Much was made of the speech in *The Sydney Morning Herald*, Parkes hawked copies of it to the public, however the Oration at Tenterfield drew little interest in other colonial media.

Parkes was a major political force across the colonies during the 1880s and early-1890s. Most colonial premiers and politicians deferred to him. Many admired Parkes' as a self-made man who had arrived in New South Wales in 1839 from Warwickshire (England) with little other than hope for a better future. The transition from poor tradesman to premier of the premier colony was a remarkable feat.⁶¹ In 1889 Parkes, then Premier of New South Wales, launched a one-man campaign for federation. He was the grand old man of Australian politics, a survivor from the mid-century battles for self-government and democracy. Initially, his campaign met with remarkable success. A Constitutional Convention in 1891 with the most able men from the colonies and New Zealand was the high point of Parkes' campaign.

⁵⁸ La Nauze, John (1972) *The Making of the Australian Constitution*, p 9.

⁵⁹ Ibid, p 8. Major-General Bevan Edwards, British commander of the Hong Kong contingent, had undertaken a review of colonial armed forces during 1889, describing them as inadequately equipped with an ineffectual communication system. This was manna from heaven for Parkes and his federal band-wagon.

⁶⁰ Martin, Allan, 'It Would be a Glorious Finish to Your Life': Federation and Henry Parkes, in Headon, David and John Williams (eds) (2000) *Makers of Miracles: The Cast of the Federation Story*, Melbourne University Press, Melbourne, p 68.

⁶¹ Ibid, pp 70-71. Parkes arrived in Sydney in 1839, an assisted migrant aged twenty four years. Formally unlettered, he was a skilled artisan, having participated in the democratic agitations associated with the Birmingham Political Union. It was in this organisation that Parkes learnt the rudimentary skills of mass oratory. Parkes' story is truly one of rags-to-riches (and back again!).

Delegates appointed by colonial parliaments attended a Convention in Sydney in 1891 agreeing on a constitution penned by Sir Samuel Griffith, then Queensland Premier.⁶² The constitution was debated in colonial parliaments, met with strong opposition in New South Wales in particular, was put by at the Colonial Office in London and the federal scheme it represented then collapsed. After this failure and his subsequent fall from power in 1891, Parkes' federal aspirations became erratic to say the least. His petty spitefulness, which assumptions of past superiority bred, lay behind his gross behaviour toward Edmund Barton, leader of the federal project after 1891.⁶³

Though recognising the difficulties in bringing about federation, Parkes failed in his mission. Nonetheless, he has become 'the Father of Federation' in Deakinite accounts. Parkes was the figurehead that the Deakinites needed, an initial prophet, a reference point with which to begin their federal story. Parkes may have taken on mythical proportions because of the way that the Deakinite story is told: a linear history, a triumphal tale, neatly built around a discrete 'beginning', 'middle' and 'end', interlaced with memorable events, people, images and metaphors. A sacred text written by Samuel Griffith, a man seemingly loved by all (in the Deakinite myth), rounds out the federal story.

Sir Samuel Griffith, variously Queensland Premier, Chief Justice of the High Court, and Constitution-maker at the 1891 Convention, was made of sterner stuff than Parkes. Griffith was an unusual type of Australian politician who compelled respect from both friend and foe, however critically his activities might be viewed. Some might have condemned his record as a past premier. Few forgot that he was not only legally qualified but also an able and learned lawyer-politician who could be appointed to a Chair of Law or as a Chief Justice without a whisper of professional criticism. Indeed,

⁶² Hirst, John (2000) *The Sentimental Nation*, p 1.

⁶³ Martin, Allan, "It would be a glorious finish to your life": Federation and Henry Parkes', in Headon, David and John Williams (eds) (2000) *Makers of Miracles: The Cast of the Federation Story*, p 72.

Griffith had few peers across the British Empire.⁶⁴ In the Deakinite myth, Griffith was responsible for the constitution of the 1891 Convention. To them he was the architect, the author of the sacred text.

Since his youth, Griffith had a profound admiration for America, though it was in later in life that he was to see it first hand. Griffith was a federalist, as were many other Constitution-makers. Unlike many of his colleagues, he had closely studied the growth and operation of the greatest of all federations (in scholarly literature and in judgements of the United States Supreme Court).⁶⁵ Griffith's intellectual pre-eminence, his experience as a barrister and politician, along with his capacity to convince other delegates at the 1891 Convention of the rightness of his views and arguments, render him an outstanding figure in Australian constitutional history. During the 1880s however, Deakin regarded Griffith with some ambivalence. Deakin was less than glowing in his praise for Griffith at the Imperial Conference in London (1887).

As President of the Federal Council, Deakin believed that Griffith should have occupied the post of leader. His absence of enthusiasm with regard to the questions under consideration and his deference toward the Colonial Office, in Deakin's view, caused him to exercise far less influence than his ability and knowledge would have justified had they been boldly exercised. Deakin's opinion must be placed in the proper context, however. Griffith, unlike the Australian-born Deakin, was doubly colonial – both Welshman and Australian. Griffiths' deference must be gauged within this double relationship to the Imperial centre, to the 'higher power'.⁶⁶ Fortunately, opinions change over time, as Deakin's did.

⁶⁴ La Nauze, John (1972) *The Making of the Australian Constitution*, p 13. See also, Saunders, Kay, 'A Welsh aristocrat and an Australian liberal: Samuel Griffith and the writing of the Constitution', in Headon, David and John Williams (eds) (2000) *Makers of Miracles: The Cast of the Federation Story*, p 33.

⁶⁵ La Nauze, John (1972) *The Making of the Australian Constitution*, p 13.

⁶⁶ Saunders, Kay, 'A Welsh aristocrat and an Australian liberal: Samuel Griffith and the writing of the Constitution', in Headon, David and John Williams (eds) (2000) *Makers of Miracles: The Cast of the Federation Story*, p 35.

Four years later Deakin cast Griffith in a different light, after Griffith had single-handedly devised the constitution for the 1891 Convention. Griffith was seen at his best when in charge of the Bill (the 1891 version of the constitution) of which he was the dominating draftsman. His patience, lucidity and thorough grasp of the subject made him a model leader among men who needed no quickening enthusiasm and would have brooked no assumption of ministerial supremacy.⁶⁷ In the heroic story thus far, Parkes had lit the federal flame during the late-1880s, leading to the Australasian Federation Conference in 1890, and the Constitutional Convention in 1891. Although Parkes may have been the 'physical leader' at the 1891 Convention, Griffith was the intellectual leader and scribe. After serving an apprenticeship under Griffith during the 1891 Convention, the federal baton was passed to Edmund Barton upon Parkes' political demise in 1891. Barton went on to lead the 1897-98 Conventions with great distinction.

Australia's first Prime Minister, Edmund Barton, is often portrayed as Australia's favourite son.⁶⁸ As Geoffrey Bolton avers, less eloquent than Deakin, less politically adept than George Reid, less purposeful than Charles Kingston or John Forrest, less brilliant as a lawyer than Samuel Griffith, to his critics Barton was too fond of food and drink to make an impression equal to his abilities. Yet he led the 1897-98 Conventions with distinction. It can seem that Parkes' federal exploits and patriotic labours have overshadowed Barton's achievements.⁶⁹ Few today would be familiar with Barton, an Australian who gave his life to the federal cause. Seemingly, Barton's election to the New South Wales Parliament in 1882 galvanised his ideas on Australian nationhood.

During the 1890s, Australian federation became Barton's obsession, his *raison d'être*. His parliamentary career was interspersed with either loss of election at the hands of the voting public or resignation on points of principle. During the 1880s he spent

⁶⁷ Deakin, Alfred (1997) *'And Be One People'*, p 33.

⁶⁸ McMinn, W G (1994) *Nationalism and Federalism in Australia*, Oxford University Press, Melbourne, p 195.

⁶⁹ Bolton, Geoffrey, 'Edmund Barton: some mysteries', in Headon, David and John Williams (eds) (2000) *Makers of Miracles: The Cast of the Federation Story*, p 75.

valuable time as Speaker of the House, and in the Legislative Council.⁷⁰ (Sometimes forgotten by Deakinites, it was George Reid's generosity that allowed Barton to pursue the Constitution Bill during 1898-99 as an unelected member of the New South Wales Legislative Council.⁷¹) Barton was a participant at the 1891 Convention and part of Griffith's constitutional drafting team which laboured during Easter 1891. As mentioned, he led the Conventions of 1897-98 with great distinction.

A gifted person, Barton progressed through the middle-class institutions of private school, a classical education, university and acceptance at the Bar in 1868. Decorum, orderliness, reasonableness and tradition were important to him, despite accusations of indolence, lack of purpose and a penchant for food and drink. He admired Britain, her institutions of parliament, the common law and the Westminster system of government. His respect for the older and wiser was a dominant part of his make-up. His time as Speaker in the New South Wales Parliament indicates that a penchant for law and order and societal order was important to Barton.⁷²

Barton was part of a conservative trinity - along with his good friends John Downer (South Australian delegate to both sets of Conventions) and Richard O'Connor (New South Wales delegate to the 1897-98 Conventions) who were elected to devise a constitution during the 1897-98 Conventions. Barton's influence on Australia's journey to federation cannot be underestimated. He was present at the initial Convention in 1891, through to Royal Assent given to the Constitution Act in London on 9 July 1900. It was Barton, Kingston and Deakin who danced holding hands in the privacy of their hotel room, when the sacred text had been blessed by the 'higher powers'. Eminent historian John La Nauze praises Barton as a loyal and true Australian.

There were men in the Convention more eminent and more industrious in their common profession; more learned in constitutional law; equally devoted in the preceding decade to the profitless cause of federation;

⁷⁰ Bolton, Geoffrey (2000) *Edmund Barton*, pp 34-6.

⁷¹ McMinn, W. G (1994) *Nationalism and Federalism in Australia*, p 157.

⁷² Bolton, Geoffrey (2000) *Edmund Barton*, pp 35-7.

*more prominent and experienced in politics. Yet he led them all, with an authority never questioned, and sustained by the visible and irrefutable example of plain hard work and continuous devotion to a task. He raised the general tone of debate so far above that of colonial legislatures from which most delegates came that the occasional descent into their familiar atmosphere seemed positively shocking.*⁷³

And to Robert Garran, Barton was that 'one man for the job', a prophet writ large.

*My feeling is that Barton was a field kept fallow for a particular harvest; that he was set aside, dedicated, for a special task. He devoted to that task all his pent-up energies; he completed it. What more can we ask of any man?*⁷⁴

Of the Constitution-makers, Deakin was the most complex. A brilliant scholar and thinker, he was a true child of the Enlightenment. A mystic who held regular meetings with a medium to access the spiritual world, Deakin was told on 6 August 1880 that he was destined for greatness in the new Australian nation.⁷⁵ A qualified lawyer, Deakin had a penchant for the stage and an ambition to be a writer of quality literature, something he put to good use in the one million words he wrote on the federal journey. An Ultra-Federalist, Deakin supported the flawed constitution of the 1891 Convention. Despite his constitutional and legal knowledge, he saw himself as a facilitator, often subordinating his position to the majority viewpoint.⁷⁶

Liberal by political persuasion and the possessor of a highly developed social conscience, Deakin possessed a vision of the perfect man, one encompassing duty, mission, service, self-sacrifice, law and order. His great fear was social or political revolution. He favoured universal education (women included) seeing it as a means to alleviate the suffering of the poor and disadvantaged in society. Social harmony, national progress via industrial arbitration and conciliation, labour market reform, workplace reform and the protection of the Anglo-Saxon population via the White Australia Policy were central aspects of his belief system. Deakin was the archetypical

⁷³ La Nauze, John (1972) *The Making of the Australian Constitution*, p 280.

⁷⁴ Ibid, p 280. See also, Reynolds, John (1999) *Edmund Barton*, Bookman Press Pty Ltd, Melbourne, for Reynolds' analysis of Edmund Barton which was written in the late-1940s.

⁷⁵ Botsman, Peter (2000) *The Great Constitutional Swindle*, p 35. Botsman describes Deakin as the 'spellbinder', the author of a million or more words on the federation journey. Deakin, more than anyone else, is responsible for the images and accounts of constitution-making and federation.

⁷⁶ Deakin, Alfred (1997) '*And Be One People*', p xvi. See comments on page 33 of this thesis.

middle-class man. His penchant for things like good food, fine wine, social stability and above all books, all bourgeois aspirations, reinforce such a view.

Deakin judged others through the binaries of goodness and evil, strength and power, education and learning, selfishness and charity. A prominent figure during the 1880-1890s, Deakin attended all conferences and Conventions on the journey to federation from 1883 onwards. His caricatures and mini-biographies of several Constitution-makers have been highly influential, colouring debates on the constitution and federation with an overtly Deakinite flavour. To some, they are a dogmatic and selective story of federation dominated by Ultra-Federalists like Henry Parkes, Sam Griffith, Alfred Deakin and Edmund Barton and repeated by men like Bernhard Wise, John Quick and Robert Garran. It is nevertheless their campaign perspectives, their selection of incidents and detailing of the processes and their federal stories that, generally speaking, have held the field for decades after 1901. What is more, they have infiltrated our historical subconscious.⁷⁷

Dr John Quick, another Victorian liberal, is best known for his proposal during the Corowa Conference (1893) to have delegates to the 1897-98 Conventions democratically elected. He wanted a constitution emanating from the people, not one designed by lawyers and politicians. A gifted lawyer, during 1894 Quick followed up his 'Corowa' ideas by preparing and circulating a draft Bill which won wide approval. George Reid aired these at a Premiers' Conference in Hobart (1895), gaining majority approval. Consequently, delegates in Victoria, South Australia, Tasmania and New South Wales were elected to the 1897-98 Conventions by popular vote.⁷⁸ Quick's actions are central to the Deakinite myth, representing a turning point in the federal journey. His ideas on the democratic election of delegates to future Conventions places the federal story in the realm of the people (the pure) and out of the hands of

⁷⁷ Botsman, Peter (2000) *The Great Constitutional Swindle*, p 5.

⁷⁸ Deakin, Alfred (1997) '*And Be One People*', p 57.

the politicians (the polluted). This was a masterstroke in popularising the federal prophets, their disciples and their sacred text.

Quick proposed a motion to deal with Commonwealth citizenship during the 1897-98 Convention debates. He recognised that the Conventions were creating a new political organisation, imbued with a new political agent, different from those extant in the colonies. Quick believed that his colleagues should place in the constitution an express definition of Commonwealth citizenship. If not this then the Federal Parliament should be empowered to determine how citizenship could be acquired, what its qualifications were to be, its rights, its privileges and how the individual could lose or gain these. Quick's ideas on citizenship were swamped by conservatives at the Conventions, despite the cogency of his argument.⁷⁹ If actively supported, Quick's ideas on citizenship could have provided a framework for how the Australian citizen might function within the new Australian nation.

Deakin actively supported Quick on the issue of citizenship in the constitution during the Melbourne Convention in 1898. Both men shared similar views on politics and society. More importantly, Deakin described Quick in glowing terms in a biographical piece.

As a lad his lot was hard and he was obliged to earn his living on a mine before he was in his teens. Dark, handsome, sturdy and intelligent, the lad possessed a dauntless determination and trustworthiness which enabled him to educate himself so as to qualify for a reporter on a Bendigo paper. From thence he passed to the Melbourne Age rising at last to the position of chief of staff and writing an occasional leading article. At the same time he pursued his University course, being one of the first to win the LL. D degree from the University of Melbourne.⁸⁰

Quick possessed characteristics Deakin undoubtedly favoured. Quick and Robert Garran co-authored *The Annotated Constitution of the Australian Commonwealth*. It was a mammoth undertaking in Australian federal and constitutional history and is still

⁷⁹ Official Record of the Debates of the Australasian Federal Convention, Melbourne, March 2-3 1898, p 1751.

⁸⁰ Deakin, Alfred (1997) *'And Be One People'*, pp 57-8.

regarded as the quintessential account of Australian constitution-making. Few readers could be left unimpressed by the breadth, scope and scholarly nature of this book. It also secured hero status for Quick and Garran in Deakinite accounts.

Robert Garran is a Deakinite hero as much for his work at the 1897-98 Conventions, as for his authorial work with John Quick. His book, *The Coming Commonwealth*, was published prior to the Conventions and proved very popular among Constitution-makers. Garran attended the 1897-98 Conventions as secretary and adviser to George Reid. However, he was far more than Reid's 'backroom advisor', as Deakin suggested. (Interestingly, Garran is only mentioned once in Deakin's 'Inner Story'.) Deakin noted that Reid had brought with him a Mr Garran as his counsellor on legal and constitutional matters.

His [Reid's] weakness was illustrated in the most remarkable way by his frequent withdrawals from his colleagues in order to consult Coghlan and Garran, who were provided with an adjoining room. Often when the discussion appeared closed he would retire and after being closeted with them, return freshly primed to re-open the debate.⁸¹

Deakin's comments were focused not so much on Garran but on George Reid, a gifted and popular politician who Deakin despised.

Garran often stood squarely in the limelight he so often deserved, but it was usually by dint of association with someone else, Edmund Barton, Alfred Deakin, George Reid or John Quick. Being a mere secretary, and not a Constitution-maker, placed him in an unenviable position. Despite his devotion to duty at the Conventions, he accepted that he would not be remembered as a founding father, something he recognised without resentment. He understood the path that he had chosen to follow was unlikely to lead to fame and glory on the national stage. Being the leading bureaucrat in the emerging Commonwealth was adequate compensation for him. An account of a truer and more faithful 'disciple' would be hard to find.

⁸¹ Ibid, pp 101-2.

Garran was a brilliant all-rounder. An outstanding student during his formative years, he was at ease with both the law and humanities. He nurtured his interest in the Greek language and the Greek tragedies. Not surprisingly, Garran embraced acting and the theatre. The possessor of a keen sense of humour, he enjoyed dressing up and acting the part of jester. Literature was a favourite, something he would utilise later in his life. Garran's precise use of words is evident in his books, a direct legacy of his studies in which skill with verse and prose was encouraged.⁸² The culture Garran inhabited invited interests across a wide spectrum.

Music, the pursuit of literary activities, translations exercising the intellect and a wholesome interest in sport were his favourite pastimes. For Garran, cricket and tennis were part of his training and he left humorous accounts of interdepartmental cricket matches in which he and William Morris Hughes (a future Australian prime minister) participated. The whole man had been built from the pillars of his Victorian education – intellectual, practical, aesthetic and physical components gathered around a core of competency in literature and thinking.⁸³ A true servant of the Australian nation, Robert Garran occupies a central place in the Deakinite account. Again, an account of a more worthy disciple and encoder of the sacred text would be hard to find.

Bernhard Wise, New South Wales parliamentarian and brilliant lawyer, also wrote books and papers on the federation journey. An Oxford University graduate, Wise was described by Deakin as one who had become more English in manner than most of the sons of that famous university where he was known as a man of brilliant promise. Deakin reckoned that Wise was too independent in mind and haughty in manner to be a favourite with his fellow-members and too self-respecting to stoop to the crowd when he believed them to be in the wrong – far from beneficial traits for a supposed

⁸² Brownrigg, Jeff, 'Federation's Prodigy: the private life of Robert Randolph Garran', in Headon, David and John Williams (eds) (2000) *Makers of Miracles: The Cast of the Federation Story*, pp 100-01.

⁸³ *Ibid*, p 102.

democrat.⁸⁴ An ally of the ailing Henry Parkes, Wise was a trenchant and unrelenting critic of George Dibbs.

Wise was a participant on the *Lucinda* voyage during Easter 1891, a delegate to the 1897-98 Conventions, and avowed Ultra-Federalist. During the 1890s he commended the Constitution Bill as a panacea for the ills of the colonies, one that would annually cost his fellow citizens only three shillings and sixpence a head, about the same as the cost of licensing one's dog.⁸⁵

Although considered a liberal-democrat, Wise was ambivalent about citizenship for the mob. The following comments during the Convention Debates convey such a view.

*Probably it would be more apt to use these words: Every subject of the Queen resident in any state or part of the Commonwealth shall be entitled to all privileges and immunities of subjects resident in other states or parts of the Commonwealth, but this section shall not apply to the people of any race in respect of which the power conferred by sub-section (26) of clause 52 can be exercised That would give Parliament every control, and prevent the states from being coerced in respect of the coloured races, while it would get over the difficulties which have been suggested by attempting to define Commonwealth citizenship.*⁸⁶

The Deakinite heroes were an able body of colonial men. Most were at the pinnacle of colonial society. Their influence on developments across the colonies cannot be underestimated. It is not surprising they have become central characters in the Deakinite myth. They were crusaders in pursuit of the Holy Grail, authors of a sacred text, attempting to deliver order out of the extant chaos. Most importantly, they were the men of vision.

⁸⁴ Deakin, Alfred (1997) *'And Be One People'*, pp 64-5.

⁸⁵ Crisp, L F (1990) *The Federal Fathers*, p 114. In 1913, with the benefit of hindsight, Wise conceded that the federal system of government he had helped to create was not only expensive to operate but was an unwieldy 'machine' socially, legally, economically and politically. With grace, he acknowledged that although an arch rival in politics, George Dibbs' ideas on national union were indeed meritorious.

⁸⁶ Official Record of the Debates of the Australasian Federal Convention, Melbourne 1898, p 1793.

1.6 *The Deakinite Vision*

The last decade of a century or millennium is often replete with utopian stories, myths and visions, imagining how new societies can be delivered out of the extant chaos.⁸⁷ The Graeco-Roman and Judeo-Christian traditions, the main intellectual heritage of western civilisation, are rich in utopian stories, filled with episodes of violent conflict between rich and poor, exploiters and exploited, those for order and disorder.⁸⁸ In the Australian utopia that the Ultra-Federalists imagined, hope was to replace despair, equality to replace inequality and national order to replace colonial chaos. Utopian stories are often written in metaphors. The Deakinite myth is little different.

The story of federation can be understood as no more than a myth. There was no revolutionary moment to embrace and celebrate in Australia's journey to nationhood, unlike the United States of America, France, or England. A myth had to be constructed to make sense of, and to put meaning into, federation. In successive Deakinite accounts, the journey to federation has become one of mythical characteristics. Mystical and religious ideas underpin the journey. God is central to the myth.⁸⁹ Memorable phrases reinforce it. A sacred text (the Constitution) instantiates it. The myth is often described in visionary language. John Hirst's *The Sentimental Nation*, (with chapter titles *The Prophet, Revival, Destiny*), Helen Irving's *To Constitute a Nation*, Bob Birrell's *Federation: The Secret Story*, Alfred Deakin's *'And Be One*

⁸⁷ Irving, Helen, *To Constitute a Nation*, p 212. The late 1880s and the early 1890s in Australia were, it has been argued, a 'Utopian moment', a time of both optimism and dismay, of disillusionment with the old constitutional relations and of confidence in the local ability to forge new ones. Utopian is, however, not a matter of pipe-dreaming, of wildly unrealistic or unreasonable fantasy. Many utopian texts and writers have been meticulous planners, replete with detail and precision in their ideas. Many have used devices to transport the reader into an alternative social, political or economic blueprints. The turning of a century or a millennium are often fertile times for such utopian stories to be told. See also, Hirst, Derek (1999) *England in Conflict 1603-1660: Kingdom, Community, Commonwealth*, Arnold, London, pp 40-1. The Gunpowder Plot of 1605 (an attempt by English Catholics to blow up the English House of Parliament and King James 1) was, to many Protestant Englishmen, the hand of God at work. The failure of this plot was seen as a gift from God. As Hirst says, if apocalypticism and millenarianism were the methods of inflamed minds, providentialism – the belief that God's responsibility for all events – offered a blueprint for everyday.

⁸⁸ Lindeman, Albert (1984) *A History of Socialism*, Yale University Press, New Haven and London, pp 1 and 5. The Englishman Thomas More's classic text *Utopia*, is an example of this genre, one with which many Ultra-Federalists who were educated in the classics, would have been cognizant.

⁸⁹ Hirst, John (2000) *The Sentimental Nation*, p 4. As Hirst comments, 'God wanted Australia to be a nation'. God was an important issue to the Constitution-makers and to many of those who voted for them. In today's secular Australia, God and religion can seem to be unlikely catalysts for nationhood.

People', and David Headon and John William's *Makers of Miracles* all attest to the mystical and visionary overtones of the federation story.

Central to the myth is Alfred Deakin, the 'seer'. For Deakin, God was a Spirit or Force or Principle leading humankind to higher forms of life and deeper understanding. Evolutionary social thinking, with authority borrowed from Darwin's biology, was strong among both orthodox and heterodox believers. God and evolution was an irresistible mix.⁹⁰ Deakin always kept a rigid demarcation between his public and private life, and between the latter and his inner life, which was the realm of books and ideas, of inspiration and aspiration towards the Ideal. Deakin waited and listened for instructions from his God and nothing happened unless God willed it and nothing prospered without His blessing.⁹¹

Edmund Barton is the federation prophet. Reputedly an indolent and lazy, yet brilliant young man, it seemed unlikely Barton would fulfil his potential. His election to the New South Wales Parliament in 1882 galvanised his ideas on federation. This was his road to Damascus. From 1882 onwards, the Holy Grail of federation was his life's purpose. Deakin and Barton, the most avowed Ultra-Federalists, gathered a group of disciples, who also took up the sacred quest for federation. Quick, Wise, Griffith, Garran and O'Connor were other true believers. Parkes, the Father of Federation⁹², is a John the Baptist figure, preaching from the wilderness to non-believers during the chaotic days of the 1880s and early 1890s. Inspired by prophets Barton and Deakin, the Ultra-Federalists developed a vision of the nation they hoped to create. A sacred text would manifest their vision.

⁹⁰ Ibid, p 6.

⁹¹ Gabay, Al (1992) *The Mystic Life of Alfred Deakin*, p 2. Deakin was a seeker of Providential signs, a fervent believer in prophecy and inspiration and convinced his political labours were mandated by the Divine will, and that the fate of his own nation was somehow linked to his own capacity for spiritual gnosis and moral improvement.

⁹² Hirst, John (2000) *The Sentimental Nation*, p 88. As Hirst notes, when Parkes delivered his Tenterfield oration he was given the title of 'Father of Federation', thus ensuring him of legendary status.

Underpinning the Ultra-Federalist vision was an Australian nation built around a people sharing a common identity, common ideals and common aspirations. Recognising community as a precondition for nationhood, Helen Irving observes that Australian colonials had the ingredients for the creation of a political union. They shared a language, a religion (Christianity - whether Protestant or Catholic), a monarch and a crimson thread of kinship.⁹³ Ultra-Federalists like Barton espoused these ideas, the media spread the message.⁹⁴ Sloganeering was an important tool in reinforcing this vision. In building a popular sentiment around the federal cause, Barton told an audience in the Sydney suburb of Ashfield that for the first time in history an opportunity existed to 'have a nation for a continent and a continent for a nation'.⁹⁵ What Barton truly understood by nation, and who could be part of it, he did not spell out. The questions of 'the crimson thread of kinship' that would run through those who belonged to it, or whether it would be a nation comprising 'one people with one destiny', as Henry Parkes famously said at a banquet on 6 February 1890, also remained unanswered.⁹⁶

It is also doubtful that Barton recognised that Australians would have to imagine the nation they hoped to inhabit, before a constitution for it could be shaped. Could the Australian nation be imagined as a community distinct, or even separable, from Britain? London had long been the imaginative centre for the majority of white Australians. Men like Parkes recognised that many Australians would still call England home long after federation had been achieved. To Parkes, another home had to be acknowledged. At the Federation Conference of 1890, Parkes, the quintessential sloganeer, offered the Australian people the challenge to, 'make yourself a united people, appear before the world as one, and the dream of going home would die away. We should create an

⁹³ Irving, Helen (1997) *To Constitute a Nation*, p 31.

⁹⁴ Birrell, Bob (2001) *Federation: The Secret Story*, pp 2-3. The *Bulletin* was a highly influential pro-federation mouthpiece, with a wide readership. In June 1898 voters in the colonies of New South Wales, Victoria, Tasmania and South Australia were given the opportunity to decide whether they wished to create an Australian nation. Approval of the constitution would lay the foundation for a federated Australian nation. The *Bulletin's* final appeal to voters is a highly emotive one, one extolling the vision of the Federal Fathers.

⁹⁵ McMinn, W. G (1994) *Nationalism and Federalism in Australia*, p 1.

⁹⁶ La Nauze, John (1972) *The Making of the Australian Constitution*, p 11.

Australian home. We should have home within our own shores'.⁹⁷ This home was not a New Britain in the antipodes, but a land in the Southern Seas where all were to be equal and free.

Class in the Australian context was also downplayed or ignored altogether by the Ultra-Federalists. Class division was something successive waves of colonists had left behind in British or European hierarchical societies, or so the Ultra-Federalists claimed.⁹⁸ Australia was fortunate in their view, to have escaped the scourges of class-based and hierarchical societies, ill-begotten curses that threatened to split Britain and Europe asunder. Jack was as good as his master, if not better, in the colonies. The levelling tendencies of colonial society had created a social system that was not cognisant of class or a possessor of class-consciousness, or so Deakinites claim.⁹⁹ Class as an issue and source of division may have been absent from the Ultra-Federalist vision of Australian society. Race was not.

Chinese, Japanese, Javanese, Laskars, Pacific Islanders, coloured people and those deemed inferior to Anglo-Celts were not welcome. The issue of colour was unequivocally a race issue, but it was much more than this. To Ultra-Federalists, it was a type of cultural strategy in the process of nation building.¹⁰⁰ Racial homogeneity was a central issue in the 1890s. The Constitution-makers recognised this¹⁰¹, as did the Australian people when they voted on the Constitution Bill in 1898 and 1899.¹⁰² The new nation was to have a purified beginning, free from the threat of pollution that came

⁹⁷ Irving, Helen (1997) *To Constitute a Nation*, p 27

⁹⁸ For example, a search through the Indexes in John Hirst's, *The Sentimental Nation*; Helen Irving's *To Constitute a Nation*; or John La Nauze's, *The Making of the Australian Constitution*, reveals no mention of class.

⁹⁹ Connell, R and T Irving (1992) *Class Structure in Australian History*, Longman Cheshire Pty Ltd, Melbourne, p 109.

¹⁰⁰ *Ibid*, p 100.

¹⁰¹ Official Record of the Debates of the Australasian Federal Convention, 1898, pp 665-66, 682-83. John Forrest, Premier of Western Australia during the 1890s and political master of Western Australia, spoke forthrightly on the White Australia Policy during the Melbourne Convention. He recognised, correctly, that though many Australians preferred not to outwardly speak of the 'race issue', nonetheless, it was one most white Australians held strong views on. During the 1897-98 Conventions, Deakin, Barton, O'Connor and even liberals like Higgins, held firm views in favour of the White Australia Policy.

¹⁰² Irving, Helen (1997) *To Constitute a Nation*, p 219. Section 127 of the Constitution excludes Aboriginals from the Australian nation – they were non-citizens or people. It states that, 'In reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives shall not be counted'.

from the mixing of Anglo-Celtic blood with that of coloured and inferior peoples. To Deakinites, the White Australia Policy was not a racist policy. It was designed to protect the Anglo-Celtic crimson thread about which Parkes had spoken.

By excluding those races that the Ultra-Federalists deemed inferior, the dignity of labour and decent standards of living could be preserved, caste divisions could be avoided, and social harmony maintained.¹⁰³ Through progressive social, industrial and political policies, the Ultra-Federalists projected a workingman's paradise. In the 1890s, Australia was gaining a reputation for progressive social and economic legislation, but this was to remain the responsibility of the states.¹⁰⁴ Only at the last minute was the Commonwealth given powers over old-age pensions and interstate industrial disputes. It was in the name of federation that the Ultra-Federalists most clearly expressed their sense that Australia represented a new beginning in nation building.¹⁰⁵ Ultra-Federalists believed that the White Australia Policy was not only a shaper of civic ideals, but also a pathway to a glorious future in a united Australia.

The civic element in Australian nationalism, particularly the view that all should be accorded equal status by virtue of membership in the national community, was to have wide appeal among Anglo-Celts. It offered a basis for a community of inclusion and respect. There were to be no 'second class citizens' in Australia. Australia was to be a community of citizens, all enjoying advanced social rights.¹⁰⁶ Those thought incapable of living in accordance with these ideals were to be excluded. A more utopian ideal would be hard to find in stories of nation building. The great social, political, industrial

¹⁰³ Hirst, John (2000) *The Sentimental Nation*, p 22.

¹⁰⁴ Gollan, Robin (1966) *Radical and Working Class Politics: A Study of Eastern Australia 1850-1910*, Melbourne University Press, Melbourne, pp 71-4. Gollan outlines the advances made in working conditions and hours, levels of pay, industrial democracy, and the like, in the lead up to Federation. Compared to Britain and Europe at the time, the advances made in Australia were quite profound.

¹⁰⁵ Hirst, John (2000) *The Sentimental Nation*, pp 22-3.

¹⁰⁶ Birrell, Bob (2001) *Federation: The Secret Story*, p 16.

and democratic experiment envisioned by the Ultra-Federalists had been fulfilled once federation was celebrated on January 1901.

The sacred text had been accepted by the people and been blessed by God. John Quick's article in the *Brisbane Courier*, published on the day of the Inauguration of the Commonwealth, is instructive, and reflects the essence of the Ultra-Federalist (and Deakinite) vision. Written in metaphor and shrouded in mystical language, Quick believed that:

*The Constitution was the greatest triumph of freedom and democracy, combined with cherished respect for traditional principles that the world had ever seen. Sublime, thrilling and momentous, the Commonwealth, like a mighty ship of state, has been launched on the great ocean of destiny. May thy voyage....be prosperous, peaceful and glorious; ever from thy masthead flying....the flag of freedom and progress....built to live and move with mobility far-reaching, and with lustre resplendent and immortal!*¹⁰⁷

1.7 The Deakinite People

Who the people are in the Deakinite account is somewhat problematic. Who the people are *not* is easier to ascertain.¹⁰⁸ (This will be discussed at length later in the chapter.)

The people are mentioned in the sacred text (the constitution) but who they are is not explained. The true believers, the faithful in search of the Holy Grail: the Ultra-Federalists and their disciples are foremost among the Deakinite people. Most of the Constitution-makers are held in reverence, although some are banished to a Deakinite historical purgatory, particularly those who doubted the sacred text or spoke against it. And of course, the 422,788 Yes voters in the 1898 and 1899 referenda¹⁰⁹ are the real people: for it is they who brought the Ultra-Federalists' dream to fruition.

If people are important to the Deakinite myth, so too are sacred sites. Bathurst, Bendigo, Corowa and several border towns between Victoria, New South Wales and

¹⁰⁷ Irving, Helen (1997) *To Constitute a Nation*, p 44.

¹⁰⁸ Ibid. p 100. Among the many models that were proposed for the new nation, one was rejected outright. Australia, it was agreed, must not be Chinese. Although the issue of 'colour' was unequivocally a racist issue, it was more than this. To Irving, it was if anything, a type of cultural strategy in the process of nation-building.

¹⁰⁹ Hirst, John (2000) *The Sentimental Nation*, p v.

Queensland have all become such sites. Tenterfield, of Parkes' Oration, was the initial sacred site on the federal journey. Delegates from the Australian Federation League and the Australian Natives Association meet at Corowa between 31 July and 1 August 1893 where John Quick proposed popular elections for future Constitutional Conventions: hence the so-called 'popular' movement for federation. The Bathurst People's Federal Convention, November 16-21 1896, provided solutions for the equitable distribution of 'surplus' revenue from future Commonwealth Governments. John Quick, Alfred Deakin, Edmund Barton, Bernhard Wise and other Constitution-makers were central players in both of these conventions. At these conventions, or so we are told, federation was taken from the politicians and placed with the people.¹¹⁰

Organisations are also central to the Deakinite account of the people who contributed to the glorious project. The Australian Natives Association (ANA) is one such organisation. By the late 1880s the ANA had numerous branches in Victorian towns and cities, particularly gold mining towns like Bendigo and Ballarat. By 1890, its branches numbered one hundred, with the most powerful and influential in Melbourne.¹¹¹ Despite Deakinite claims to the contrary, the ANA was not highly influential in other colonies in the mid-1890s.¹¹² The ANA was largely a Victorian entity, the colony that was most strongly pro-federation.

The Australian Federation League, which was influential in New South Wales and Victoria and emanated from the efforts of Edmund Barton in Sydney and Alfred Deakin in Melbourne, is another important organisation in the Deakinite account. Both the AFL and the ANA catapulted federation into the popular imagination, or so Deakinites claim. Often overlooked, however, is the fact that those coordinating and leading both the ANA and the AFL were the federal prophets and their disciples. The Conventions of 1891

¹¹⁰ Ibid, p 394.

¹¹¹ Birrell, Bob (2001) *Federation: The Secret Story*, p 79.

¹¹² Hirst, John (2000) *The Sentimental Nation*, p 43. The ANA did have branches in other colonies and did gather delegates from all mainland colonies for a national conference on federation in 1890. However, in no other colony did the ANA reproduce its Victorian successes, largely as a consequence of Victoria's peculiar demographics.

and 1897-98, along with the huge party in Sydney, New Year's Day 1901, when God gave his blessing to the sacred text, are also sites of significance.

As in other myths, poetry, verse and metaphor are used to describe visions of the future. Some federation writers, Deakinites claim, ignore the federalist and early nationalist poets of the 1880-90s, although they loomed large in the colonies between 1891 and 1897.¹¹³ William Gay, the young Englishman who came to Australia for reasons of health, eulogised the forthcoming Australian nation, writing of it in mythical terms. In launching the 'Yes' campaign in Victoria for the 1898 referendum, Deakin used Gay's verse to great effect.¹¹⁴ Queenslander J B Stephens, the best of the federation poets, did not argue that Australia should be a nation, he assumed it and dealt instead with the ideal becoming real. His poems were the most powerful expression of the idea that national union was Australia's destiny. When Stephens, headmaster for a time at a Brisbane state school, was transferred to the bush he appealed to his patron Premier Samuel Griffith to find him a job in his office, something Griffith duly did.¹¹⁵

John Farrell wrote poetry for and in praise of the emerging Australia, a new nation free from the ills of the Old World. His work was an invective against Australia becoming a dumping ground for Britain's unwanted subjects. He eulogised Australia as a virgin nation, free from the blood and stains of the British and European pasts. Australia was to be a federal nation, one of racial purity, he wrote. Henry Parkes admired Farrell's writing. Although Parkes did not sympathise with Farrell's politics, he helped him to a job as editor of the *Daily Telegraph* newspaper. Samuel Griffith also corresponded with Farrell over his plans for radical social reform.¹¹⁶ British poets also wrote of Australian federation. Alfred Lord Tennyson, when writing on the future of Australian nationhood,

¹¹³ Ibid, p 24-5. As Hirst acknowledges, the poetry of Henry Lawson and Banjo Patterson have helped define the Australian nation, not those of William Gay, John Farrell, J B Stephens and the like, those who wrote against the backdrop of the struggles for federation during the 'lost' years of 1891 to 1897.

¹¹⁴ Ibid, p 18.

¹¹⁵ Ibid, p 16-7.

¹¹⁶ Ibid, p 21-2.

wrote about 'the parliament of men and the Federation of the world'. Rudyard Kipling also eulogised over Australian nationhood, continuing his 'White Man's Burden' themes.¹¹⁷

Parkes and Griffith were both avid poets and writers. Barton, Deakin and fellow Tasmanian Constitution-maker (1891) A I Clark, also endorsed nationalistic and federation poets. To John Hirst, writers on Australian federation have purposely, repeatedly and unfortunately overlooked the poetry and verse of the 1880 and 1890s, regarding it as light and ephemeral. Historians examining what part nationalism played in the creation of federation find it hard to imagine the founding fathers reciting 'The Man from Snowy River' and assume that nationalism's part was small.¹¹⁸ Deakinites maintain that the nationalism of these poets was a civic nationalism, concerned with the state and the principles and values it should protect and advance. Vision, imagination and a mystical language underpin this poetry. All are central to the Deakinite myth.

An Australian people with vision and imagination are important to Deakinites. How could federation be sold to a disinterested populace other than in visionary and mythical language and metaphor? There was no defining moment for the people to embrace; a foundation myth was essential. Events at Corowa, Bathurst, Bendigo, the Conventions of 1891 and 1897-98, organised and led by federalist prophets and disciples, the heroes, fired the imagination of the Australian people, Deakinites claim. In the end it was the poets, the patriots and the political men of vision who brought about federation. The practical men of business had failed.¹¹⁹ As with other myths, the forces of darkness, the enemies of the 'cause', are an essential element: they mark a clear delineation between the included and the excluded. It is to the enemies of the Deakinite vision that I now turn.

¹¹⁷ Ibid, p 24. Hirst notes that George Essex Evans, another Australian 'federation' poet, was keen to have his works on the new Commonwealth published before Rudyard Kipling arrived in Australia in 1900.

¹¹⁸ Ibid, pp 24-5.

¹¹⁹ These are central themes throughout Hirst's elegant text, *The Sentimental Nation: The Making of the Australian Commonwealth*.

1.8 Enemies

Chief among the enemies of the Deakinites were the anti-Billites, the states' rights men, who, according the Deakinites, could see only danger in the power of the emerging Commonwealth Government. They feared the loss of position, power and wealth they had built up. Conservative men of property, many were Legislative Councillors in the colonies. Men like McMillan, Braddon, Want, Lyne, Zeal and Fraser comprised this group, becoming known as the anti-Billites. These men hoped that the new political framework they were creating would maintain economic, political and social life along established lines. They saw federation as an expedient provision for extending governmental machinery, and in no sense as a facilitation of major social change, much less any form of social or political revolution. As is to be expected, the anti-Billites have been portrayed in the Deakinite historical record as enemies and as men of little faith. This group stole away and licked their wounds in silence; they certainly did not set down their version of the federation story for posterity.¹²⁰

In between the anti-Billites and the Ultra-Federalists were a group of liberal-minded men who anticipated a more democratic and liberal constitution for all Australians. These men - who were professional men, not pastoralists, merchants or businessmen - spoke during the Conventions and later in colonial parliaments for democracy and for the working class. Although they had much to offer the new Australian nation, these men fared little better than anti-Billites in the Deakinite account. They shared something of the Ultra-Federalist vision but were more patient, more critical of the political compromises that the Deakinites claimed were required in an important document like a constitution. They did not see themselves as being meddlesome in registering their objections to the constitution. They thought that they were constructively criticising it, believing it was not suitable for the people of a new Australian nation.

¹²⁰ Crisp, L.F (1990) *Federation Fathers*, p 3. See this page for an overview of the anti-Billites.

By publicly speaking of their concerns about the constitution, however, their story has been marginalised in and indeed, largely eradicated from Deakinite accounts. Their lack of support for the sacred text was an unforgivable act. Unlike many Ultra-Federalists, they were unwilling to compromise their principles in favour of federation at any cost and at any time. Men like Isaac Isaacs were prominent in this group. Although Isaacs favoured a democratic and liberal Australian constitution, Deakin's belittling biographical caricatures have sullied Isaacs' achievements. Isaacs' Jewish origins also went against him at the Conventions of 1897-98, particularly among men imbued by theories of Social Darwinism, eugenics and other racially based ideas. Race and religion were a potent mix in the development of exclusionary ideas during the 1890s.¹²¹

H B Higgins is another arch-enemy of the Deakinites. Higgins sought to alert voters to the human consequences and potentialities of the new Commonwealth Government during the referenda of 1898-99. A man of principle, he did not shy away from issues he believed important for the Australian people. An analytical speaker and debater, compromise and the sacrificing of truth for expedience were not his style, and he often found himself in a minority of one during the Conventions (1897-98).¹²² Higgins ran foul of his less democratic colleagues by speaking bluntly about the national good. He told a Sydney audience in 1899 that, 'the trouble is that the commercial classes in all the Colonies are looking at the thing [federation] in too commercial a spirit'.¹²³ Witnessing the compromises many had made during the 1898 Conventions, Higgins doubted the true ambitions of many of his colleagues.

¹²¹ Deakin, Alfred (1997) *And Be One People*, p 69. Deakin's description of Isaacs is instructive, ideas which were emulated some three decades later throughout Europe, although in a far harsher 'climate'. To Deakin, Isaacs was a short, spare, dark-skinned Jew with a thick neck, protruding lips, large nostrils and a high, narrow retreating forehead. His hands were so heavily jointed and knuckled that they were almost deformed, the fingers flat-topped and the whole bony. The head was extremely long from the eyebrows which projected like a penthouse over the eyes to the point of the back brain which was equally prominent behind.

¹²² Crisp, L F (1990) *Federation Fathers*, p 156.

¹²³ *Ibid*, p 157.

Alfred Deakin despised George Reid.¹²⁴ A committed democrat, Reid believed that the 1891 constitutional model was illiberal and undemocratic and set about quashing the ambitions of Parkes and Griffith. Reid also knew that federation was a non-issue without the backing of New South Wales. Unlike the 'impatient federalists', Reid was more circumspect, more guarded and prudent with respect to the constitution. Pilloried by Ultra-Federalists for being an equivocator, Reid sought to present arguments both for and against the Constitution Bill to voters in New South Wales during the 1899 referendum. The fact that he voted for the Bill apparently did not count. Reid's generous appointment of the unelected Barton to a position in the New South Wales Legislative Council from which Barton could fight for the federal cause is rarely mentioned by Deakinites. Reid's pro-federation address at the People's Convention at Bathurst in 1896 is also overlooked in Deakinite accounts.

George Dibbs favoured constitutional and political reform for the Australian nation. He dreamed of a unified Australia, free from the pettiness and squabbling of narrow minded, self-interested, states' rights men. During the early years of his public life Dibbs regularly spoke of national union, often clashing with his arch-rival, Henry Parkes. These clashes seem to have blighted Dibbs' name in subsequent Deakinite accounts. Maybe La Nauze was reflecting Deakin's dislike of Dibbs, a man prepared to speak out against what he took to be an undemocratic and unrepresentative constitution.¹²⁵

Charles Kingston, South Australian Premier from 1893-99 and President of the 1897-98 Conventions, was another to be sullied by the Ultra-Federalists and successive Deakinites. Kingston favoured a more democratic constitution. A radical

¹²⁴ Deakin, Alfred (1997) *And Be One People*, 62-3. Deakin's description of Reid is full of spleen and caustic. Reid, to Deakin, lacked dignity and self-respect, resulting in a formidable opponent to all that was good and decent. He was also gross, fat, obese and self-indulgent, among other things. Deakin's remarks have, unfortunately, set the benchmark for other descriptions of Reid.

¹²⁵ Ibid, pp 71-4. La Nauze claims that Dibbs challenged Henry Parkes on every issue largely because Parkes had attempted to have Dibbs excluded from the 1891 Convention through underhand means. These demeaning references to a central and intelligent figure at the 1891 Convention serve to reinforce my argument of the partisan nature of Deakinite histories of constitution-making and federation.

liberal, he introduced the franchise for South Australian women in 1894. Along with A I Clark, Kingston came to the 1891 Convention with a fully formed constitution.

Regarded as a trusted friend of the people, Kingston served his colony and nation with distinction.¹²⁶ Deakin saw things otherwise. To him, Kingston was the possessor of a strong and almost irrational animal passion, possibly the result of a crippled self-development, with the will to overcome these shortcomings. His courage verged upon unscrupulousness and his abuse was always vituperative. Rather than an able man, a capable and valuable contributor to the federal cause, Deakin saw Kingston as forever at the mercy of his dark and unbridled character.¹²⁷

Although the Tasmanian A I Clark provided the 1891 Convention with a fully formed constitution, he too is a failed character in the Deakinite myth. Deakinites rarely acknowledge that Clark's model was the basis of the Australian Constitution. For this is Samuel Griffith's honour. Of Clark's 96 sections, 88 survived Sam Griffith and the *Lucinda* editorial process and 86 are recognisable in the current Australian Constitution.¹²⁸ Ironically, it is to A I Clark that contemporary scholars are turning to discover the meanings and ideals of the Constitution, and few leave disappointed.¹²⁹

Clark was something of an Australian Thomas Jefferson who, like the great American republican, fought for the democratic rights of the citizen. Australian independence, an autonomous judiciary, a wider franchise and lower property qualifications, fairer electoral boundaries, checks and balances between the judicature, legislature and executive, modern, liberal universities, and a Commonwealth that was federal, independent and based on natural rights, were important issues to Clark.¹³⁰ Clark's

¹²⁶ Crisp, L.F (1990) *Federation Fathers* p 278. Kingston attracted and held working-class support in South Australia throughout the economic recession of the early-1890s, and while the working classes were evolving their own Labour Party. Even the *Queensland Worker* newspaper and the *Bulletin* magazine (Sydney) warmed to Kingston's efforts in looking to the concerns of the workers of South Australia.

¹²⁷ *Ibid*, p 37.

¹²⁸ Botsman, Peter (2000) *The Great Constitutional Swindle*, pp 54-5. See these pages for a diagrammatic expose of the linkages between Clark's 1891 model and the Australian Constitution at the turn of the 21st century.

¹²⁹ *Ibid*, p 19.

¹³⁰ *Ibid*, p 19.

nonconformist, secularist upbringing, his democratic and republican beliefs, were too much for Ultra-Federalists to bear. Clark voted against the Constitution Bill in 1899 because of its illiberal and undemocratic aspects. He too has been purged from the Deakinite account.

1.9 Ultra-Federalists and Compromise

The Ultra-Federalists made several 'compromises' as they wrote the constitution. This cannot be denied. Compromises were required if a federal union was to be achieved. states' rights versus the national interest, protection (of industry) versus a policy of free trade, how to construct two houses of parliament, how to fairly and justly elect members to these institutions, who was to be included in the political nation, and whether legal appeals should travel to the Privy Council in London, were all contentious issues. Too often, however, conservatives and states' rights men outmanoeuvred liberals and democrats. In the end, the concessions made by the Ultra-Federalists to those who were not pursuing a national vision may be understood to call into question the very point of federation.

Alfred Deakin openly admitted that he often abandoned his preferred position to that of the majority. He chose federation at any cost, over and above principles and provisions that he believed would have been favourable to *all* Australians.¹³¹ It is not difficult to see why. The powerful colonies, New South Wales and Victoria, were more economically, culturally and socially advanced than the other colonies. Both colonies had to secure a favourable deal – they could not afford to give too much to the other colonies otherwise the people in these states would not vote in favour of federation.

Men from the smaller colonies had to convince their people that they had secured favourable terms from the federal deal. All Constitution-makers understood that

¹³¹ Ibid, p 36.

federation was impossible without New South Wales. Victorians (in particular) and New South Wales people knew that without Tasmania, South Australia, Queensland and Western Australia, federation would at best be an empty union. Tasmania and Western Australia both needed special economic support if they were to be viable parts of a federal union. Federation had to be on their terms; many delegates from New South Wales largely shared the same viewpoint. Queenslanders were initially not interested in federation. Nor were Western Australians. Not only were ideas compromised but so were several Constitution-makers.

Acknowledged by his colleagues as the finest legal mind at the 1897-98 Conventions, Isaac Isaacs was excluded from the Constitutional Committee.¹³² James Walker, although elected as a delegate for his economic expertise, was not elected to the Finance Committee at the 1897-98 Conventions.¹³³ Kingston was elected President of the 1897-98 Conventions, apparently to quell his liberal, radical voice.¹³⁴ Although A I Clark's constitution is the basis of today's Australian Constitution, his contributions to the sacred text are rarely remembered.¹³⁵ Barton, Downer and O'Connor, all conservatives, comprised the Constitutional Committee.¹³⁶ If Alfred Deakin is to be believed, concessions were rarely made for the greater good.

As was noted in the Introduction, Deakin believed that few had made genuine sacrifices without thought or hope of their own personal gain on the journey to federation. That the people could rise to their national duty and overcome self-interest and that elected officials could align personal ambition with public duty was, to Deakin, the true miracle

¹³² La Nauze, John (1972) *The Making of the Australian Constitution*, pp 129, 179. La Nauze alludes to Isaac's omission from the Constitutional Committee of the 1897-98 Conventions, describing it as a crushing humiliation for Isaacs. This was largely engineered by Barton and other influential conservatives.

¹³³ *Ibid*, p 101. Walker was a retired bank manager and philanthropist who had written and lectured widely on issues of federal finance. His election was one of the few examples of public recognition of a man who was an expert in his field.

¹³⁴ *Ibid*, pp 105-6. See these pages for the intrigue surrounding election of the President to the Adelaide Convention of 1897.

¹³⁵ Crisp, L F (1990) *Federation Fathers*, p 19.

¹³⁶ Bolton, Geoffrey (2000) *Edmund Barton*, pp 148-9. Barton also had the added advantage of working with two of his closest friends on the Constitutional Committee.

of federation.¹³⁷ Although it is understandable that compromises would have to have been made on the journey to federation, the haste with which these compromises were made by the Ultra-Federalists in particular, is a very contentious aspect of the Deakinite account.

1.10 *The Journey to Federation*

Briefly stated, this is how the journey to federation is presented in Deakinite accounts. The federation story begins in the 'misty' years of the 1860s and 1870s, when Graham Berry and Charles Gavan Duffy (both Victorian Premiers), and Charles Pearson (another Victorian) spoke on the advantages of a federal union. James Service, Samuel Griffith and Thomas McIlwraith (who we have already met) also spoke in favour of federation in the 1880s, but to no avail. Chaos and disorder reigned up to the 1880s. Henry Parkes was instrumental in resurrecting the federal journey in the early-1890s. Then follows a period of conferences and conventions, beginning in 1890, attended by leading colonial men of the time.

This period begins with the Australasian Convention of 1883, when federal prophets from all colonies met in Sydney during November and December 1883 to discuss annexing neighbouring islands and federation. (Deakin attended this conference and every one after.) Sanctioned by an Imperial Act of 1885 which was drafted by Samuel Griffith, a Federal Council of Australasia was implemented in 1886. Parkes and other New South Wales (unelected) delegates refused to attend. South Australian delegates attended only in 1885-86. An Inter-Colonial Conference was held in Sydney in June 1888 to discuss uniform legislation to restrict Chinese (and other aliens) migrating to the colonies. The beginnings of the White Australia Policy emanated from this conference. In 1889 Major-General Bevan Edwards, commander of the British squadron in Hong

¹³⁷ Ibid, p 2.

Kong, conducted a review of colonial military forces, delivering a damning report on the efficacy of these forces.

Inspired by Bevan's report (or for other personal reasons?¹³⁸) Henry Parkes embraced Australian federation. Parkes, as noted, travelled to Brisbane to sell his federal ideas, unbeknownst to his political colleagues in Sydney. He then spread the federal message in a speech at the Tenterfield Arts School. His federal efforts come to fruition with the advent of the (first) National Australasian Convention held in Sydney, 1891. Some order appeared to be emerging out of the chaos. Despite the best efforts of Parkes, Deakin, Griffith, A I Clark, Henry Wrixon and other federal travellers however, the 1891 constitution was put by.¹³⁹

Federation faded from the popular and political realms. Six long years were to pass before the federal fires were lit again. Although the federal cause was in the background during the mid-1890s, it was still alive and well in some quarters of colonial society. Barton, Deakin, Quick, Garran and other prophets and disciples quietly drove the movement for federation. Central in spreading the federal gospel were the Australian Natives Association, the Australian Federal League, the National Association and other pro-federation organisations. Sacred sites, such as Bendigo, Ballarat, Corowa, were also an integral part of the federation journey.

Running parallel to these official conferences and conventions, other unofficial events were held at several federal sacred sites. As previously discussed, a Federation Conference¹⁴⁰ (unofficial) was held between 31 July and 1 August 1893 in the Murray River border town of Corowa. John Quick proposed popular election of delegates to future Constitutional Conventions: hence the 'popular' movement for federation. The

¹³⁸ La Nauze, John (1972) *The Making of the Australian Constitution*, p 12. The fact that historians still argue about Parkes is some evidence that simple verdicts on his motives and career are suspect.

¹³⁹ See above comments.

¹⁴⁰ Crisp, L. F. (1990) *Federation Fathers*, p 393.

Bathurst People's (unofficial) Federal Convention,¹⁴¹ held between 16 and 21 November 1896, was important because its members debated the equitable distribution of surplus revenue from future Commonwealth Governments. These conferences are notable in the Deakinite myth for removing the federal cause from the hands of the men of practical business and politics and placing it into the hands of the people.

By 1897 the Holy Grail appeared to be in sight. (Some) voters in (some of the) colonies were given the privilege of electing delegates to the Second Australasian Federal Conventions. In 1897 elected delegates arrived at the Adelaide Convention from Victoria, Tasmania, South Australia and New South Wales. Western Australian parliamentarians appointed delegates. Queenslanders stayed at home for their own reasons. A sacred text was compiled (the text from the 1891 Convention, revived and reinvented) and presented to the voters for approval in 1898. Was it a truly popular sacred text? The people would determine this at the polls.

Victorians voted overwhelmingly in favour. A small majority of South Australians and Tasmanians voted in its favour. West Australians weren't sure and John Forrest (Premier) was not in favour. Queenslanders remained distant from the process. New South Wales required 80,000 voters to constitute a majority, a number that was not attained. This was heartbreaking to Barton, Wise, O'Connor and other Ultra-Federalists. Despite a majority of colonies voting in favour of the sacred text, all knew that without New South Wales federation was impossible. To Ultra-Federalists, the Holy Grail had again slipped through their fingers. George Reid, maligned federal conspirator in the Deakinite account, arranged a Premiers' Conference in Hobart, January 1899, to reconsider the 'text', and make amendments requested by at least three colonies. The people voted on the constitution again during 1899.

¹⁴¹ Ibid, p 394.

Queenslanders voted this time round and a majority approved the sacred text. Western Australians did not vote. The people of New South Wales voted in favour moving the colony ever closer to the Holy Grail. Sanctioning of the sacred text by the Higher Power (the British Parliament) was the next step on the journey. The prophets took their sacred text to Great Britain in 1900 for approval. Success came after alterations were made to it by the Colonial Office. Out of sheer joy the prophets danced in the privacy of their London hotel room. In July 1900, Western Australians decided to accept the terms of federation offered them by the prophets and did not risk exclusion from the new nation as a founding state. Queen Victoria proclaimed the Act (the constitution was in the form of a British Parliamentary Act) in September 1900 and on 1 January 1901, the Australian nation came into being.

Order had replaced chaos. The Holy Grail was now in the hands of the prophets and their disciples. They had finally delivered the people into the promised land, a land of egalitarianism, fairness and justice for all. The sacred text was certain to ensure maintenance of these. An active and participatory citizenry would protect and enhance them. The creation of an Australian citizenship, so Deakinites claimed, was one of the great purposes and achievements of federation in 1901.¹⁴² In the new Australian nation all were to be equal; as has been noted, there were to be no second class citizens. A description of the citizen, their rights and duties, however, is more problematic for those analysing the Deakinite myth.

1.11 *The Compromising of Citizenship*

Citizenship has a lengthy history in the Australian milieu. Australians have been citizens since colonial times, witnessed in the development of representative governments and written constitutions from the 1850s onwards. The fact the people have been active in all aspects of community life up to and after federation, reinforces

¹⁴² Chesterman, J and B Galligan (eds) (1999) *Defining Australian Citizenship*, p 1.

this. The people are citizens, not subjects of the Crown, consequently the people hold sovereign power within the political nation, or so contemporary Deakinites maintain. To eminent Australian historian Helen Irving, the privilege of voting was a central aspect of a vibrant colonial citizenship.

By the 1890s, there was effectively manhood suffrage in all the colonies. Plural voting persisted in several colonies, along with property qualifications in a couple of them, although the qualifying property levels were such that the working man on an average income could easily meet them. By the end of the 1890s, such fetters on the right to vote – at least for the lower houses of parliament – had been reformed or were in the process of being reformed in the colonies, and the franchise was being extended to women.¹⁴³

Despite these anomalies and exclusions, ‘during the 1890s the word citizen was often used in the press, in speeches, in the rules and charters of organizations, and in debates about political entitlement, particularly at the Conventions’.¹⁴⁴ As previously noted, what constitutes citizenship in the Deakinite account is not clearly defined.

The constitution does not include a definition of Australian citizenship. This is literally true, although the constitution includes many things by implication.¹⁴⁵ This is not problematic. Australian citizenship entailed commitment, belonging, and contribution. It did not begin with an enumeration of rights. From the idea of citizens as particular types of person, an argument for rights emerged. The claim for citizenship was the reverse of what we commonly make today – that is, the acquisition of rights as a means of becoming a citizen. Confusingly, to Deakinites, Australian ‘citizens’ were, minimally, British subjects, either by birth or naturalisation.¹⁴⁶

Deakinites recognise that citizenship has proved to be an enigma to analysts because it is absent from the constitution. Finding no definition of citizenship or any statement

¹⁴³ Irving, Helen (1997) *To Constitute a Nation*, p 2.

¹⁴⁴ *Ibid*, p 2.

¹⁴⁵ The Australian Constitution (Annotated) (1997), Constitutional Centenary Foundation, Carlton, Victoria, p 116. Section 117 of the Australian Constitution is a watered down version of the XIV Amendment of the Constitution of the United States of America. Significantly, Section 117 does not refer to, or outline who the citizen is, what their duties and obligations are, or how they are to function in the polity.

¹⁴⁶ Irving, Helen (1999). *Citizenship before 1949*. <http://www.law.unimelb.edu.au/events/citizen/irving.pdf>, p 3.

of citizens' rights and responsibilities, many have presumed these did not exist, Deakinites aver.¹⁴⁷ To anti-Deakinites confusion was compounded by the formal adoption of 'subject' instead of citizen in the constitution and continued usage of 'British subject' in Australian citizenship documents until the 1950s. Australian citizenship did not become a legal reality until the Commonwealth's *Nationality and Citizenship Act 1948* came into force on Australia Day 1949.¹⁴⁸ Despite this, substantive citizenship rights were not spelt out. These are issues that caused and cause little concern with Deakinites. Citizens are subjects and subjects are citizens to Deakinites, which is somewhat puzzling.

Australian citizenship, to Helen Irving, is best described in substantive terms, firmly encapsulated in its practices and defined by its practicalities, rather than in legal or formal notions. As Irving claims, unlike Americans who read works of political theory as they wrote their constitution and constructed definitions of the citizen and citizenship, Australians have rarely thought about citizenship in theoretical terms. Australians have tended to draw, if anything, on social definitions of citizenship, thinking less about political or civil practices, and more about 'character' or community. For Australians, citizenship has been more of a social construction than a political or legal category, and this approach has changed little over the last one hundred years.¹⁴⁹

Citizenship has developed through legislation and administrative practices by state and Commonwealth governments in key areas of civil society. The pragmatic and the practical have always overridden theoretical aspects of citizenship in Australia. While this may be all well and good, the constitution gives no ideas on what the citizen was and is to be. Deakinites further confuse the issue by describing Australian citizenship as institutionally diffuse, federal in character, developing over time, to be studied

¹⁴⁷ Chesterman, J and B Galligan (eds) (1999) *Defining Australian Citizenship*, p 4.

¹⁴⁸ Davidson, Alistair (1997) *From Subject to Citizen*, p 91. In 1949 an alien who had been resident in Australia for the period required and had an adequate knowledge of the English language could apply for citizenship.

¹⁴⁹ Irving, Helen (1999) *Citizenship before 1949*, <http://www.law.unimelb.edu.au/events/citizen/irving.pdf>, p 1.

accordingly. Deakinites do recognise that a comprehensive constitutional treatment of citizenship might be preferable to some theorists for whom it would be neater and simpler.¹⁵⁰ Nonetheless, that is not the way Deakinites believe citizenship has been handled in Australia. This is surprising given that citizenship was hotly debated at the Melbourne Convention that was held in 1898.

Citizenship was extensively discussed during the Conventions. Its absence in the constitution is somewhat perplexing. States' rights can appear to have been a sticking point: the Constitution-makers seemed intent on allowing the states to retain existing citizenship laws. It appears they did not want future Commonwealth Governments interfering with the freedom and rights of minority racial groups as they moved within and between the states. John Forrest, for example, did not want Chinese miners given free access to the Kalgoorlie goldfields. He wanted to retain the right to prevent migration to his state on the grounds of race, ethnicity and nationality after federation.¹⁵¹

After extensive debates, the Constitution-makers moved from citizen to subject, because subject was considered appropriate constitutional terminology. Nor is the Constitution's relative silence on citizenship evidence of neglect, Deakinites claim; it simply reflected the majority preference against putting such matters in the Constitution. The issue for them was not whether a new Australian citizenship was being created but how this was to be done. The options were to spell out citizenship constitutionally, or leave its development to the determination of future Commonwealth

¹⁵⁰ Chesterman, J and B Galligan (eds) (1999) *Defining Australian Citizenship*, p 4.

¹⁵¹ Official Record of the Debates of the Australasian Federal Convention, Melbourne 1898, pp 665-66, 682-8.3 Forrest sought to regulate the flow of migrants into Western Australia, particularly Chinese and other non-Anglo-Celtic gold miners. State control over citizenship, rather than the Commonwealth Government, was Forrest's ideal. His views won the day at the Conventions.

Governments. The Constitution-makers chose the latter course.¹⁵² They claim it as a necessary compromise, but such a compromise was too important to be made.

To Helen Irving, the Constitution-makers did not include a definition of citizenship in the constitution as they were reluctant to include express statements of policy in it. The constitution is, with some few exceptions, constructed around the distribution of powers between levels of government – powers with which the parliaments can do more or less what they like, as far as policy is concerned. Irving claims this reluctance has served us well and is a positive aspect of our constitution. It has shielded us from the inappropriate values of the past and allowed for the evolution of different approaches to Australian politics. And it has led to a restraint and tolerance in ways of doing things that are otherwise not prohibited. Irving also believes that things (constitutionally) are best left as they are, rather than write the values of the present time into the constitution and then entrench them in law.¹⁵³

Despite this, it can be claimed that this is what the Constitution-makers did. They constructed a constitution suited to their times, one that would result in an agreement over a raft of issues between states and putative Commonwealth Government. Moreover, if we don't know what we are protecting or entrenching in law, it is difficult to identify what it is. And if we cannot identify it, it is impossible to know if it is adequately protected. Although Deakinite ideas on citizenship indicate the possibilities for the Australian citizen, the reality has been quite different. Social justice, egalitarianism, equality, a fair go for all and tolerance are myths the Anglo-Celtic majority has clung to in maintaining their hegemony.¹⁵⁴ It is the compromise over citizenship that initially aroused my suspicions about the Deakinite story.

¹⁵² Chesterman, J and B Galligan (eds) (1999) *Defining Australian Citizenship*, p 6. After considerable debate, the Constitution-makers decided not to formalise citizenship in the constitution, instead leaving its development to future State and Commonwealth Governments to formulate.

¹⁵³ Irving, Helen (1999). *Citizenship before 1949*. <http://www.law.unimelb.edu.au/events/citizen/irving.pdf>, p 6.

¹⁵⁴ Macgregor, Duncan, Andrew Leigh, David Madden and Peter Tynan (2004) *Imagining Australia: Ideas For Our Future*, Allen and Unwin, Sydney, pp 18-20. In the section titled 'Reworking Australian Values', the authors discuss the

In short, it can seem the Constitution-makers devised a constitution that would protect middle-class power and authority against an increasingly educated and active working class, intent on having their voice heard in the new Australian nation. This because the Constitution-makers were eager to ensure that the working class could not legally, or effectively, challenge the middle-class hold on power and authority, particularly in light of the bitter and acrimonious industrial confrontations of the time. Although other constitutional models that were inclusive of the citizen had been utilised at the 1897-98 Conventions, the Constitution-makers knew that a rigid, restrictive and almost unchangeable constitution, minus ideas on the citizen, was the perfect tool to protect middle-class interests. Although Deakinites might disagree, excluding citizenship from the constitution can be seen as a deliberate political act by the Constitution-makers.

1.12 Conclusion

The Deakinite account of constitution-making is a heroic and progressive tale of personal, familial and economic sacrifice by the Ultra-Federalists in particular, for the greater good of Australians past, present and future. As noted in the Introduction, the story of federation is no more and no less a myth set in metaphorical overtones. There was no revolutionary moment to embrace, to celebrate, in Australia's journey to nationhood, unlike the United States of America, France, or England. So a myth had to be constructed to make sense of, and to put meaning into, federation. The myth is replete with stories about prophets, disciples and their chosen people. It is told in the words of the victors, presented in the images of the victors, clothed in the prejudices and proclivities of the victors; while the losers are relegated to a footnote in the historical record, or excluded altogether.

Deakinites claim that Australian society has been based on notions of egalitarianism, tolerance, equality and a fair go for all. They maintain that Australians have been

continuing relevance of egalitarianism, mateship and the fair go to a majority of Australians. They claim that by and large, those who support these ideas are of Anglo-Celtic stock.

citizens since colonial times, witnessed in the development of representative governments during the 1850s, associated written constitutions and active involvement of the people in all aspects of colonial life. The people, Deakinites believe, actively participated in the federation movement, witnessed in organisations like the Australian Natives Association and the Australian Federation League, and at events like Corowa and Bathurst. Consequently, the people are sovereign agents in the Australian nation. Who 'the people' are is not described in the Deakinite account, although the people are mentioned in the preamble to the constitution. Conversely, enemies of the Deakinite myth are readily identified and pilloried for opposing the pursuit of the Holy Grail.

In the Deakinite myth, the constitution defines the relationship between the individual and the state as that of citizen, not as a subject of the Crown. Australian citizenship is best described in substantive terms, firmly encapsulated in its practices and defined by its practicalities, rather than in legal or formal notions. Deakinites correctly concede that Australians have rarely thought about citizenship in theoretical terms, unlike the Americans, who self-consciously constructed notions of citizenship. If anything, Deakinites maintain, Australians have tended to draw on social definitions of citizenship, thinking less about political or civil practices and more about 'character' or community.

The absence of any mention of citizenship in the constitution is a reflection of the ability and willingness of the Constitution-makers to make particular compromises. Yet, it is the issue of compromise that raises larger questions about constitution-making. Deakinites tend to gloss over the reasons why definitions of citizenship and the obligations and responsibilities of the citizen are not spelt out in the constitution. That the constitution describes how the governor is to function whereas little is written about how the political agent is to function within the Australian polity, seems not to concern Deakinites. The near impossibility of changing the constitution is not important. To

them, the constitution has always been a liberal and democratic document, a sure guide for the development of the Australian nation and its people.

Deakinite stories of the federal journey have become 'mainstream', mainly because of the influence of Alfred Deakin's words and caricatures. Dissenting voices are rarely heard in these accounts. In recent years another story has challenged the Deakinite orthodoxy. In this dissenting account, the Deakinite myth is all too simplistic. Too many influential characters have been excluded from it, particularly those who wanted debates to continue until a fairer and more just constitution was devised. Likewise, those who opposed the constitution because they could see its flaws, particularly its undemocratic and illiberal nature, were pilloried for their equivocation. Who the people are (citizens or subjects?) and issues of class in colonial society, especially the winners and losers with respect to the federal compact, are some of the themes in this dissenting account. All will be explored in the next chapter.

Chapter 2 – Exclusions from the Deakinite Account

2.1 Introduction

It is difficult downplaying Alfred Deakin's influence on Australia's journey to federation. A million or so words have made him the unofficial biographer of the federation. That Deakin was an intelligent, charming and complex figure merely adds to his mystique. Deakinite disciples reinforce Deakin's influences by taking Deakin's story as their own. Too often Deakinites proclaim issues, events and people favourable to the federal cause, while excluding those who criticise or question it. Rarely do they acknowledge the systematic absence of person, group or issue. The journey to federation is a triumphal one for Deakinites. There is another story to be told, a story in which a group of middle-class men (the Constitution-makers) devised a constitution to protect middle-class hegemony. Recently the Deakinite myth has been challenged by anti-Deakinites, as I label them. This chapter is their story.

To eminent Australian historian Manning Clark, federation was one of those constitutional devices recommended by apologists for bourgeois democracy as a means for containing political equality and stigmatising radical changes as something outside the constitutional powers of both parties to the federal compact. The leading politicians of the 1890s, under the influence of powerful sectional interests, drafted a constitution to protect and preserve their interests for generations to come.

*They [the Constitution-makers] wanted a constitution that would assist them to defend their country against foreign attack: they wanted a constitution that would protect them from the majority. That as Parkes knew, and Sam Griffith knew, and affable Alfred Deakin knew, and Andrew Inglis Clark knew, and John Downer, and all their fellow delegates knew ... was the twin advantage of a federal constitution. It was a fortress against both the enemy without, and the enemy within.*¹⁵⁵

Similarly, Bruce Scates believes that political exigencies and a cynical regime of compromise accompanied the Constitution-makers on their journey toward Australian

¹⁵⁵ Clark, Manning (1999) *A History of Australia*, Volume V, p 68.

federation. While Deakin openly admitted to making compromises in many of the Convention debates, it is not central to Deakinite accounts that by doing so he sacrificed what he believed to be were in the interests of all Australians.¹⁵⁶ Scates laments:

*It seems that Australians during the 1890s either lost or discarded the ability to challenge the prevailing social system and dream of a society free of class, gender and racial inequalities. At its centre would reside a new notion of citizenship – not just that Australians were no longer to be subjects of a distant Queen, but that every aspect of our political life should become open and participatory.*¹⁵⁷

The transformation of colonial societies that was imagined by democrats and advanced liberals faded as the Constitution-makers haggled over power, self-interest and states' rights. Visions of a vibrant democratic polity in the new Australian nation seemed beyond the imagination of the majority of delegates.

The Constitution-makers understood that they were creating an additional level of government and needed to clarify relationships between the individual, the colonies (states) and the new nation they were creating. Issues of inclusion and exclusion were pre-eminent aspects of the Conventions. Deakinites choose to ignore these issues. Ironically, those who spoke in favour of the constitution, the federate-at-any-cost men, have been portrayed by Deakin and his disciples as the heroes, the 'true' Australians. As noted, those who spoke out against the constitution, for whatever reason, have been excluded from Deakinite accounts. More often than not they have been 'character assassinated' or held up to public ridicule by the pen of Alfred Deakin, the master narrator of the Conventions and federation movement or by his disciples.¹⁵⁸

Those who believed that the constitution was undemocratic and illiberal and that discussion on the constitution should have been given more time have been excluded

¹⁵⁶ Deakin, Alfred (1997) *'And Be One People'*, p xvi.

¹⁵⁷ Scates, Bruce (1997) *A New Australia*, p 208.

¹⁵⁸ Deakin, Alfred (1995) *'And Be One People'*. See Deakin's biographies and descriptions of several influential Constitution-makers and his descriptions of the events that took place during the Conventions of 1891 and 1897-98. Importantly, John La Nauze appears to have become bedazzled by Deakin's masterful story telling.

by Deakinites. Issues important to working-class people were excluded from the constitution because they were not represented at the Conventions. This seems of little consequence to Deakinites. Non-Anglo men and women were excluded from discussions on nationhood. Women were active in the federal movement, yet their voice too is absent. Class is ignored by Deakinites. The proscription of republicans, radicals, anarchists and socialists meant that alternative viewpoints were not heard at public meetings, conferences and Conventions. With the loss of an alternative voice, as a result of the ascendancy of middle-class conservatives, notions of a broad-based, fully inclusive democracy for Australians were severely diminished.

Analyses of citizenship and democracy were shaped and located within a middle-class, capitalist and bourgeois discourse. Other discourses were pushed to the margins, as were their protagonists. Taken in this context, federation appears a flawed event, one more about the protection of class-based interests than about establishment of a nation for *all* Australians: the inclusion of the select few and exclusion of the many. The conservative agenda was settled and ideas on radical change were negated although social, political and economic inequalities afflicted many at the time. An undemocratic and illiberal constitution, difficult to alter and with few ideas on political agents and their role in the Australian polity was designed to protect middle-class hegemony. The Constitution-makers, anti-Deakinites maintain, did not consider the interests of *all* Australians.

Whatever compromises the Constitution-makers may have made, theirs was no easy task. Despite this, too often states' rights, self-interest and short-term viewpoints prevailed, however. Ideas not of the mainstream seem to have been pilloried and brushed aside at the Conventions, leaving Australians languishing with a conservative and rigid constitution. Although colonial societies were rent with economic disparities, growing class conflicts and political hegemony, little was done by the Constitution-

makers to address these problems. This chapter, as alluded to in the opening remarks, is an account of other people's criticisms of the Deakinite account. It is divided into five sections.

The first section of this chapter, *Excluded Men*, is an account of several influential Constitution-makers who have been excluded from the Deakinite account. These men were often at odds with Ultra-Federalists over issues of democracy, citizenship and a fair and equitable nation for all Australians. *Excluded Positions*, the second section, focuses on several important ideas that were discussed at the Conventions but were excluded from the constitution, more for reasons of 'compromise' or political pragmatism, than whether they were suitable for the greater good of all Australians. When viewed from the position of those who were excluded from the constitution, the constitution can seem more about the defence of self-interest, states' rights and class-based interests. Accordingly, the following section, *The Exclusion of Citizenship*, focuses on some of the explanations that have been offered up as to why ideas on the citizen were not written into the constitution.

In Deakinite accounts, the people take centre-stage. *Excluded People*, explores the opposite idea. Rather than inclusion, many individuals and groups were excluded from the provisions of the constitution. Women, Asians and Indigenous Australians very rarely participated in the processes of constitution-making. Moreover, the proscription of class and (political) party influence from the Conventions and other meetings, effectively excluded the voice of republicans, socialists, anarchists and other radicals. With the loss of these voices, the chance to build a fairer and more inclusive Australian nation vanished. At the end of this chapter it is hoped that the reader will reconsider the Deakinite account by looking at some of the exclusions from constitution-making that have been raised by the anti-Deakinites.

2.2 *Excluded Men*

Alfred Deakin was the man most responsible for the Australian constitution. An avowed federalist, republican and ardent admirer of the USA, until recently he was a relatively minor figure in the federation story.¹⁵⁹ Dissenters like H B Higgins gave way to the 'spellbinder', Alfred Deakin, on the journey to federation. George Dibbs, George Reid and Isaac Isaacs were all critical of federation. As will be discussed later in the chapter, each of these men had different views on how the Australian nation should develop. In mainstream (Deakinite) accounts of federation and constitution-making, we rarely hear of them. If we do, it is as misguided travellers on the journey to federation.

At the end of his life historian Fin Crisp started to unravel what had really happened at the Conventions. In his view, a dogmatic and selective story of federation dominated by Ultra-Federalists Edmund Barton, Samuel Griffith, Henry Parkes and Alfred Deakin, and repeated by Bernhard Wise, John Quick and Robert Garran, infiltrated our historical subconscious: *their* campaign perspectives, *their* selection of incidents and detailing of the processes, *their* federal story – generally speaking – held the field for decades after 1901.¹⁶⁰ Crisp believed that several influential Constitution-makers had been marginalised in the federal story, compiling six mini-biographies on those he believed had contributed as much to the 'federal cause' as had Ultra-Federalists, yet had not received the public recognition they deserved. (During 1990 John Hart of the Australian National University combined Crisp's mini-biographies into a single volume, *Federation Fathers*.) If these accounts were as well known as Deakinite accounts, then a very different picture of the federation journey would have emerged. Not surprisingly, Crisp directly challenges the Deakinite myth.¹⁶¹

¹⁵⁹ Botsman, Peter (2000) *The Great Constitutional Swindle*, p 5.

¹⁶⁰ See page ? of this Thesis.

¹⁶¹ See Crisp, L F (1990) *Federation Fathers*. Crisp's six monologues recount the activities of several Constitution-makers and colonial politicians who Crisp believed had as much to offer the federation story as did the Ultra-Federalists. For whatever reason, their stories have not been told.

Fin Crisp had high regard for George Dibbs (New South Wales Premier 1885, 1889, 1891-94). A successful economic manager during the depression of the mid-1890s (unlike Deakin and his Victorian colleagues), Dibbs' ideas on national union are derided by Deakinites. To Crisp, Dibbs' ideas on national union for the colonies were no less significant than Henry Parkes' (the Deakinite 'Father of Federation') ideas on federation.

Dibbs was one of the most significant critics of the Federalist Ultras. But his purpose was not obstruction of the extreme Anti-Federalists kind. He wanted national union of the highest order, along with the keenest constructive assessment of every feature of the proposals being made with a view to the utmost practicable improvement of each – even if that took a little longer – before it was accepted and allowed to set hard, so to speak, in the constitutional edifice of the future.¹⁶²

As previously mentioned, Dibbs spoke of national union during the early years of his public life.

On 22 May 1884, Dibbs made a speech on (national) unification at Tamworth. As Premier of New South Wales, Dibbs repeated his Tamworth arguments in a letter to his Victorian counterpart Sir James Patterson, dated 12 June 1884. During the 1891 Convention Dibbs urged Constitution-makers to consider unification as an alternative to the federal system of government under consideration. Acknowledging shortcomings in the 1891 constitution, Dibbs spoke forthrightly, publicly and in parliament, against a constitution he believed was both undemocratic and unrepresentative.

Dibbs objected to the draft Constitution of 1891 as being too American, too little Canadian; as providing for unthinkable equality of State representation in the Senate; as providing for an expensive quality of government and administration; as saddling some parts of Australia with unfair and unworkable financial provisions; and as perpetuating old rivalries by failing to secure federal control over public debts, railways and land revenues. How far more beneficial in every way; how far more impressive to the outside world and to our creditors in England, would be the complete pooling of our debts, our railways, our national establishments generally. We would give to the United Government that prestige and supreme control which is almost entirely denied under the Commonwealth scheme, wherein the Federal Legislature would be

¹⁶² Ibid, p 51.

*numerically and structurally wholly overshadowed by the provincial Governments.*¹⁶³

Dibbs' vision of a united Australia fell on deaf ears at the 1891 Convention. Deakinites also ignore his proposals. Pilloried by Ultra-Federalists during the 1890s, in time his ideas were given greater credence. Bernhard Wise (no fan of Dibbs) commended Dibbs' ideas on unification when serving in the British House of Commons during 1913. Courageously, Wise acknowledged that the federal system of government created at the Conventions was problematic.¹⁶⁴

Quick and Garran, opponents on the federation question, conceded that Dibbs' unification ideas had been influential on the structure of the constitution as it stood in 1901.¹⁶⁵ Dibbs' exclusion from Deakinite accounts reinforces Crisp's claim that the victors write the histories.¹⁶⁶ Higgins and Isaacs, other subjects of Crisp, also favoured a strong central government but their ideas on unification had to wait until the 1897-98 Conventions for greater clarification. Due to the reality of practical politics, unification was never a particularly potent force during the 1890s; it would have been a difficult concept to sell to a public focused on the maintenance of existing states' rights and a federal union.

George Reid was another Constitution-maker sullied at the hands of Alfred Deakin. Premier of New South Wales between 1894 and 1899 and Australian Prime Minister 1904, Reid had been a significant colonial politician and public figure long before 1901. An innovative colonial minister in New South Wales prior to his premiership in 1894, Reid had taken up the federal cause from 1889 onwards. Unlike the impatient Ultra-Federalists, Reid was more circumspect, more guarded and prudent toward ambitions for the new Australian nation. A genial soul, Reid's physical characteristics and

¹⁶³ Crisp, L F (1974) *Australian National Government*, pp 31-2.

¹⁶⁴ Wise, B R (1913) *The Making of the Commonwealth of Australia*. Wise's text has also been influential on federation histories. Politicians like Deakin and Wise firmly established the federation movement in the terms and colours of the Ultra-Federalists.

¹⁶⁵ Quick, John and Robert Garran (1900) *The Annotated Constitution of the Australian Commonwealth*, pp 155-7.

These pages set out Quick and Garran's understanding of George Dibbs' ideas on national unification.

¹⁶⁶ Crisp, L F (1990) *Federation Fathers*, p 2.

attributes made him a favourite of cartoonists and caricaturists. Deakin put these to good use although he abhorred George Reid.¹⁶⁷

Supposedly the most conspicuous, contemptible and abominable figure at the Conventions of 1897-98, and a person physically as remarkable as his predecessor Parkes, but without his dignity, Deakin considered Reid even more formidable in discussion because he was less self-respecting. More than anything else, Deakin's images in words have set the tone for subsequent accounts of Reid. No-one reached the heights of intensity and enmity in describing Reid that did Deakin.

*Reid's immense jelly-like stomach, always threatening to break his waistband, his little legs apparently bowed under its weight to the verge of their endurance, his thick neck rising behind his ears rounding to his many-folded chin, his protuberant yet expressionless blue eyes were half hidden until roused into cunning, and a blond complexion and infantile breadth of baldness which gave him an air of insolent juvenility.*¹⁶⁸

Crisp portrays Reid in other terms, seeing him as a continuously hard working and enormously effective politician during the 1890s. A liberal-democrat, Reid believed that the 1891 constitutional model was illiberal and undemocratic and set about quashing the ambitions of the Parkes-Griffith Federal Bill that had emerged from the Sydney Convention. For whatever reasons, the constitution of 1891 was 'put by'.¹⁶⁹ Six years later Reid had the opportunity to rectify the situation.

During the 1897-98 Conventions Reid fought long and hard to negate those sections of the constitution that he believed were illiberal or undemocratic. Despite these efforts he left the final Convention unconvinced that the constitution as it stood was suitably democratic. He had another chance to address these issues at a Premiers' Conference in Hobart, 1899, succeeding in having the more undemocratic sections

¹⁶⁷ Deakin, Alfred (1995) *And Be One People*, pp 62-3. Deakin's descriptions of Reid are filled with acrimony and spleen. Reid did not fit the image of Deakin's public figure.

¹⁶⁸ *Ibid*, pp 62-3.

¹⁶⁹ La Nauze, John (1972) *The Making of the Australian Constitution*, p 86. With the Australian colonial parliaments still debating the draft constitution and the Colonial Office in London noting that objections were still being made to Privy Council appeals as the last resort for Australian litigants, the constitution looked doomed. On 31 August 1892 the recording clerk at the Colonial Office took the 'draft' from the active file and "put it by". Ultra-Federalists had a long, six year wait for the fires of federation to burn again.

removed from the constitution before it travelled to London for final approval by the British Parliament.¹⁷⁰ Reid also took his concerns into the public arena during the referendum over the Constitution Bill in 1898, presenting its negative and positive aspects to voters in New South Wales. For this, he was ridiculed and labelled 'Yes-No' Reid by the Ultra-Federalists.¹⁷¹

Reid was not the rigid, unyielding type Ultra-Federalists expected all Constitution-makers to be. He was, however, never inclined to compromise his principles for 'grand schemes'. He was more objective - more questioning and down to earth - in his idealism. He was more politically circumspect and pragmatic about the 'fine print' of the draft constitution than were the likes of Deakin and Barton.¹⁷² What the Ultra-Federalists also failed to acknowledge were Reid's liberal and democratic leanings: he had warmly welcomed John Quick's proposals for popular election of delegates to the 1897-98 Conventions; he had supported parliamentary debates on the constitution and federation in the New South Wales Parliament since the early-1890s; he had generously appointed the unelected Barton to the New South Wales Legislative Council from which Barton could continue to fight for the federal cause¹⁷³; and he had addressed the People's Convention at Bathurst in 1896, an event that had put federation back on the political agenda.

Joseph Chamberlain, then British Home Secretary recognised Reid as the 'dean' of the Australian colonial premiers, entrusting him with seventeen (secret) briefings on how the Constitution Bill was to be modified to achieve the Imperial approval. However contentious these may have been, their implementation would ensure successful

¹⁷⁰ Crisp, L F (1990) *Federation Fathers*, p 13.

¹⁷¹ *Ibid*, pp 15-16. See these pages for an overview of the speech Reid made to a huge meeting at the Sydney Town Hall in 1898 at the commencement of the campaign for voting on the Constitution Bill.

¹⁷² *Ibid*, p 3.

¹⁷³ *Ibid*, p 15. After Barton had lost his New South Wales' parliamentary seat in the 1894 election, Reid generously arranged Barton's nomination to the Legislative Council so that he could continue the push for federation.

passage of the Bill through the British Parliament.¹⁷⁴ This might have been another reason Deakin denigrated Reid's federal contributions, a case of jealousy. Reid's contributions as Constitution-maker, colonial politician and public figure were certainly more influential and significant than Deakin and successive Deakinites would have us believe.

H B Higgins, Victorian delegate to the 1897-98 Conventions and High Court Judge, envisaged a democratic Australian nation imbued with an active citizenry. A carefully prepared and analytical speaker, Higgins refused to compromise the truth for expedience, often finding himself a lone voice during the Conventions. He frequently ran foul of colleagues more desirous of compromise than arriving at principled outcomes. He had witnessed compromises made during the 1897-98 Conventions and doubted the ambitions of many delegates.¹⁷⁵ Higgins was especially disappointed in, then Victorian Premier, Sir George Turner and the 'spellbinder', Alfred Deakin. Both he believed, had 'sold out' to the states' rights men and conservatives. As Fin Crisp notes:

*Higgins believed in Australian nationhood and its essential governmental attributes, from the sovereignty of its parliament, to the independence of its appellate judiciary from all further appeal to overseas judicial authorities. He also believed in a compassionate, radical-liberal, socio-political order which set equal store by civil rights and liberties and by basic social justice for all Australians without geographical or other distinctions. Such things he believed could only endure upon a foundation of a thoroughgoing popular sovereignty and popular government and a thoroughly democratized and flexible system of Responsible Government.*¹⁷⁶

From Isaac Isaacs' (fellow Victorian delegate to the 1897-98 Conventions) viewpoint, Higgins' essence seemed to lie in four sentences.

His was a thoroughly independent mind. He sought his own solution to every problem that was brought before him, and, having reached his conclusion and considered it right, it mattered not to him whether it found favour or failed to find favour in the eyes of others. Let the path be steep or

¹⁷⁴ La Nauze, John (1972) *The Making of the Australian Constitution*, pp 173-75. See these pages for an outline of Chamberlain's instructions to the Constitution-makers; he *did* show great faith in Reid's honesty and integrity.

¹⁷⁵ Higgins, H B (1900) *The Australian Commonwealth Bill: Essays and Addresses*, The Atlas Press, Melbourne. In his text, Higgins set out his principal reasons - via addresses and newspaper articles - for rejecting the Australian Commonwealth Bill (the Australian Constitution).

¹⁷⁶ Crisp, L F (1990) *Federation Fathers*, pp 164-65.

*easy, rugged or smooth, clear or thorny, he followed it fearlessly. He always had the supreme consciousness of doing his duty as he saw it.*¹⁷⁷

At the 1897-98 Conventions, Higgins took a stand for future Australians, although on a number of crucial issues he lost out to the states' rights men, whose roots were too firmly set in the provinces, the past and present, but not in the future, and the Ultra-Federalists, whose impetuosity and impulsiveness he could not tolerate. He could see beyond the suitability of the American Constitution (arguably a states' rights and class-based model designed to protect conservative interests) for the Australian context. Higgins' greatest 'mistake' was to campaign against the constitution during 1899 and 1900; an act of heresy in the eyes of Deakinites. He voted against the constitution in 1899 because of its illiberal and undemocratic nature, its provincialism and its inflexibility: the 'frozen' constitution. Although no 'saint', Higgins warrants greater recognition than he has received.

Isaac Isaacs devoted his life to the Australian nation. As a state and federal parliamentarian, High Court Judge, Governor General and citizen, Isaacs strove for a fairer and more just society. His decision-making as High Court Judge, particularly in association with H B Higgins, was possibly his greatest influence on Australian society. Possessor of an exceptional intellect, Isaacs was one of the hardest-working and constructively critical delegates to the 1897-98 Conventions.¹⁷⁸ Why he has not been more prominent in the federal story has more to do with pre-eminence of the Deakinite myth than anything else. He was another who suffered at the hands of the Ultra-Federalists during the 1897-98 Conventions.¹⁷⁹

Probably the most able legal mind at these Conventions, Isaacs was not elected to the Constitutional Committee, the committee charged with devising the constitution for the Australian nation. Isaac's brilliant mind, his immense knowledge of the American

¹⁷⁷ Ibid, p 155.

¹⁷⁸ Ibid, pp 186-266. In these pages Crisp details Isaacs' contribution to the Conventions of 1897-98, along with his exceptional public life after federation.

¹⁷⁹ La Nauze, John (1972) *The Making of the Australian Constitution*, pp 129, 179.

Constitution, his attention to detail and his interjections on matters of principle during Convention debates not only infuriated Barton, Leader of the 1897-98 Conventions, but other 'influential' delegates. To the dismay of conservatives, Isaacs had an impressive command of the nature, strength and weaknesses of the USA Constitution. Isaacs pointed out the inappropriateness of the USA Constitution as a model for an Australian federation, revealing its chequered history in operation, its conservative and provincial approach to government and governance, and its basis in class relations.¹⁸⁰

Isaacs also believed that a constitution must be flexible in its provisions, national in its emphasis, and democratic in its spirit and detail. It must be comprehensible to the people and changed by them when the need arises. It must be flexible so that national government could cope with changes over time. A true democrat, Isaacs was confronted by a powerful conservative lobby during the Conventions of 1897-98 who were not prepared to concede democracy to the mob.¹⁸¹ Despite spending his life pursuing a democratic and liberal constitution for the Australian people, Isaacs has been excluded from Deakinite accounts, mainly as a consequence of Deakin's belittling caricatures.¹⁸²

Charles Kingston, South Australian Premier, Constitution-maker in 1891 and 1897-98 and Commonwealth parliamentarian, was another to receive 'bad press' in the Deakinite myth.¹⁸³ To Crisp, however, Kingston was a man of vision, consistent and honest, not the crippled and flawed character portrayed by Deakin. Fair and just taxation for *all*, universal suffrage for *all* men and women (not just Anglo-Celtics) and the lessening of economic burdens on the working class were important to Kingston.

¹⁸⁰ Cowen, Zelman (1967) *Isaac Isaacs*, Oxford University Press, London, p 56. Isaacs had an impressive knowledge of the American Constitution, among other things. When discussions on Section 117 of the constitution were taking place at the Melbourne Convention, 1898, Isaacs commented that while the words sounded well and were deceptively clear, similar words had given rise to all manner of legal complexity in the United States of America.

¹⁸¹ *Ibid*, p 196.

¹⁸² Deakin, Alfred (1995) '*And Be One People*', pp 69-70. Deakin's description of Isaacs has more to do with eugenics or Social Darwinism, than about Isaacs' abilities as a Constitution-maker.

¹⁸³ *Ibid*, p 37. See Deakin's comments in the previous chapter.

He suffered financial hardship and the loss of privilege and position in his support for the federal cause, something he had championed long before 1891.¹⁸⁴

Like A I Clark, Kingston had written his ideas into a constitutional model prior to the 1891 Convention. Whereas Clark's draft had seven sections and many sub-divisions, Kingston's draft was divided into seventeen clearly delineated parts. As La Nauze indicates, beginning with a series of definitions Kingston's model is set out in a more systematic way than Clark's. Upon closer inspection and with some pruning of verbiage, Kingston's model is a rearranged version of Clark's draft, with some interesting additions of his own.¹⁸⁵ Kingston also possessed radical ideas on constitutional change. The major innovation that he proposed was use of a Swiss-style process of constitutional change, that of the referendum to reject or confirm normal parliamentary legislation. It included a relatively simple process that saw ideas passed into law when a majority of the voting public favoured their introduction. Kingston's ideas on constitutional change were however rejected at both sets of Conventions.

Kingston's ideas for constitutional change were simple and clear-cut, an uncomplicated system of referenda, yet one vastly different to that written into the Australian Constitution. The fact that few referenda have succeeded since 1901 indicates our system of constitutional change is unwieldy. A brief glance at Section 128 of the Australian Constitution and the intricacies of constitutional change is bewildering for most people. Rather than constitutional change requiring a majority vote in both houses of federal parliament, a majority of the states voting in favour of such change, along with a majority of the overall population voting in favour of the idea, Kingston's

¹⁸⁴ Crisp, L F (1990) *Federation Fathers*, Chapter 5. Crisp sees in Kingston a hard working and honest servant of his native state South Australia, and the new Australian nation. Crisp acknowledges Kingston's weaknesses, the weaknesses of a normal human being. La Nauze held similar views to Deakin on Kingston.

¹⁸⁵ La Nauze, John (1972) *The Making of the Australian Constitution*, p 26.

simpler model for constitutional change could have been enshrined in the Constitution.¹⁸⁶

*New provisions based on the Swiss model for referenda. No Bill passed by the Federal Parliament could be assented to until after a referendum, if that were demanded within three months by one-third of those members of either House, or Resolutions of both Houses of any two legislatures, or 20,000 qualified electors. Assent should be given or withheld according to the result of the referendum, determined by a simple majority of votes.*¹⁸⁷

Kingston's ideas on industrial harmony were also drawn from the Swiss model. He sought to have industrial conciliation and arbitration brought under federal control. He was unsuccessful in this at the 1891 Convention, but succeeded at the Conventions of 1897-98. (H B Higgins was a staunch ally in these debates.) The misery caused by the Great Strikes seemed to catalyse Kingston's thinking on this issue.¹⁸⁸

Kingston's acrimonious struggles with the Legislative Council in South Australia also seem to have influenced his worldview. Maybe it was these that drew him to the Swiss Constitution. The Swiss constitutional model appealed to Kingston's political and social sensibilities because it emphasised the democratic organisation of society. Swiss ideas on constitutional change via the referendum and citizen-based initiative also reflected his liberal-democratic leanings. Kingston's belief that all citizens, man or woman, should play an active role in society set him apart from many conservative Constitution-makers. Kingston and A I Clark shared similar political and social sensibilities. Clark has fared little better than Kingston in the Deakinite accounts that have dominated our understanding of constitution-making.

It is a travesty of justice that A I Clark has not been afforded the credit he deserves as author of the Australian Constitution. In the Deakinite myth, all the credit goes to Samuel Griffith. Clark *did* write the draft constitution for the 1891 Convention but it was

¹⁸⁶ Quick, John and Robert Garran (1900) *The Annotated Constitution of the Australian Commonwealth*, p 278.

¹⁸⁷ La Nauze, John (1972) *The Making of the Australian Constitution*, pp 295-96. (See these pages for a copy of Kingston's draft). Kingston's constitutional model was a rearranged and partly re-drafted version of Clark's draft but with some interesting variations and additions, reflecting Kingston's liberal and democratic political positions.

¹⁸⁸ Crisp, L F (1990) *Federation Fathers*, p 304.

from Clark's model that Griffith drew inspiration. Clark's non-conformism, secularism, radicalism and democratic-republican beliefs seem to have been too much for his fellow Constitution-makers. The USA was his social, political and constitutional touchstone. Although blinkered with respect to the negative aspects of the American Constitution, particularly its States' Rights brand of federalism, Clark deserves greater praise for his contribution to the federal story.

Although Clark's model was a mixture of other constitutions, it was a significant starting point for the Convention of 1891. It also provided the Conventions of 1897-98 with a point of departure for its deliberations.¹⁸⁹ Deakin lavished praise on Griffith, however, a coldly calculating lawyer intent on social recognition.¹⁹⁰ Deakin's comments on Clark were less sanguine. 'Mr Inglis Clark, Attorney-General of Tasmania was small, spare, nervous, active, jealous and suspicious in disposition, and somewhat awkward in manner and ungraceful in speech, he was nevertheless a sound lawyer, keen, logical and acute'.¹⁹¹

Deakinite accounts suggest that Griffith had performed a constitutional miracle. During Easter of 1891 Griffith is said to have produced a document of remarkable completeness and lucidity. This, when compared with the American federalists who met continuously for four months with only one adjournment, seems unbelievable. Alfred Deakin wrote that 'in every clause the measure bore the stamp of Samuel Griffith's patient and untiring handiwork, his terse, clear style and force of expression. The Bill as a whole speaks for itself. There are few even in the mother country or United States who could have accomplished such a piece of draftsman-ship with the

¹⁸⁹ Botsman, Peter (2000) *The Great Constitutional Swindle*, pp 28-31.

¹⁹⁰ Deakin, Alfred (1995) '*And Be One People*', pp 49-50. See these pages for Deakin's glowing praise of Griffith's handiwork, authorship of the 1891 constitution.

¹⁹¹ *Ibid*, p 32.

same finish in the same time'.¹⁹² What is now known is that Griffith's 'miracle' was due to A I Clark lying in his sickbed in Sydney with influenza.¹⁹³

To the chagrin of Clark, who was bedridden with the flu in Sydney, Griffith, Barton and company tinkered with his constitutional model during their Easter trip up the Hawkesbury River aboard the Queensland Government steamship *Lucinda*. Speaking bluntly on the antics of his colleagues, Clark reckoned that:

*the Drafting Committee of the convention went for a picnic on the pleasure yacht Lucinda, and while enjoying themselves they took it into their heads to tinker with the Bill. They altered all the clauses relating to the judicature and he [Griffith] took leave to mess with it. The second convention (1897/98) had restored it to its right position.*¹⁹⁴

The fact that Clark's model was the raw material for the *Lucinda* editorial group needs reinforcing.

Although Clark's model was 'secretly' given to several Constitution-makers prior to the 1891 Convention it was lost to the world until 1958, when historian John Reynolds 'discovered' it in the South Australian parliamentary museum.¹⁹⁵ Ironically, it is to A I Clark that contemporary scholars are turning to discover the meanings and ideals of the constitution he wrote: few leave disappointed.¹⁹⁶ It is difficult to find a more thorough case of exclusion than the negation of A I Clark's part in the federal story. The exclusion of dissenters, whether Constitution-makers or other individuals and groups who spoke out against the 'sacred text', is central to the dominance of the Deakinite myth. Similarly, several important issues were discussed at the Conventions and deliberately excluded from the constitution. The next section explores these.

¹⁹² Ibid, p 51.

¹⁹³ Botsman, Peter (2000) *The Great Constitutional Swindle*, p 20. Botsman recognises Clark as the author of the Australian constitution, not Samuel Griffith.

¹⁹⁴ Ibid, p 20.

¹⁹⁵ La Nauze, John (1972) *The Making of the Australian Constitution*, p 26. Although Clark's draft was not publicly available at the 1891 Convention, nor, apparently, seen by historians until John Reynolds republished it in 1958, it was always known it existed and had been useful to the drafting committee in 1891. (Reynolds found Clark's draft in the Adelaide Parliamentary archives in 1958.)

¹⁹⁶ Haward, Marcus and James Warden 1995) (ed), *An Australian Democrat: The Life, Work and Consequences of Andrew Inglis Clark*, Centre for Tasmanian Historical Studies, University of Tasmania, Hobart.

2.3 *Excluded Positions*

Notable positions taken by delegates during the Conventions were excluded from the constitution, more for reasons of compromise and political exigency than for their lack of suitability for Australians. To many Constitution-makers, provincial patriotism overrode genuine feelings of national unity. As Patrick Glynn lamented, several colleagues thought of federation more in terms of colonial politics than in terms of national union.¹⁹⁷ Comments like these are absent from the Deakinite account. 'One vote, one value' was another issue that was widely discussed at the Conventions. Nonetheless an elected Senate on the basis of disproportionate representation was written into the constitution. Men like H B Higgins were averse to the idea of Tasmania returning as many members (to the States House or Senate) as the more populous New South Wales.¹⁹⁸ Voting malapportionments for election to the House of Representatives (the people's House) were also written into the constitution. These still frustrate liberals and democrats today.¹⁹⁹

An Australian High Court as the final court of appeal for Australians was written into the constitution in 1898 but suffered an eleventh hour demise in London in 1900. The need for constitutional change was acknowledged by most at the Conventions. The resultant Section 128 of the constitution, written in complicated and convoluted language, is a legal and constitutional minefield. To some, changing the constitution has become 'one of the labours of Hercules'.²⁰⁰ Divisions of financial power between states and Commonwealth had also been a chestnut for federalists since Service's 'lion in the path' of 1890.²⁰¹ Interstate free trade and a common tariff, with customs duties, were to be the very basis of federation. Debate on this issue again saw states' rights

¹⁹⁷ McMinn, W G (1994) *Nationalism and Federalism in Australia*, pp 173-74. Patrick Glynn was a South Australian delegate to the 1897-98 Conventions. Entries in his personal diary reveal frustration and disbelief at the behaviours of many of his fellow Constitution-makers. Many seemed intent on gaining the best deal for their state/colony, at the expense of the Commonwealth.

¹⁹⁸ Botsman, Peter (2000) *The Great Constitutional Swindle*, p 37.

¹⁹⁹ Davidson, Alistair (1997) *From Subject to Citizen*, pp 227-28.

²⁰⁰ Botsman, Peter (2000) *The Great Constitutional Swindle*, p 60.

²⁰¹ La Nauze, John (1972) *The Making of the Australian Constitution*, p 11.

men pitted against those with a national viewpoint. The resultant Braddon Blot was a case of political exigency if ever there was one.²⁰²

States' rights men saw only opportunities for their State. Those with a national vision saw only pitfalls. Issues of free trade versus protection had not been put aside before the Conventions began in 1891. Men who had seen themselves as strong advocates of federation when the Conventions opened, men who had sincerely felt the call of an Australian rather than a provincial patriotism, began to hesitate as debates on finance and trade began.²⁰³ Men from the smaller states knew that to successfully sell federation they had to ensure that their state would benefit from federal union. All knew that without New South Wales, the state that was to be hardest hit by these agreements, federation would be a nonentity. George Reid left the final Convention (Melbourne, 1898) profoundly disappointed. Convinced, as a liberal-democrat and free-trader, that the draft constitution was sadly flawed, Reid doubted whether Barton's vision of a nation for a continent would be enough for colonials to accept the terms of federation.²⁰⁴

While concessions were necessary, Deakinites rarely concede that on issues of finance and trade, states' rights men overwhelmed the national viewpoint. Local interests took precedence over national interests. Inequalities over divisions of financial power were a sticking point at the Conventions, so much so that A I Clark voted against the Constitution Bill in 1898-99. Clark believed that Tasmania (his home state) would be greatly disadvantaged by the financial clauses written into the constitution. None of the convoluted interpretations of Section 90 that have plagued

²⁰² McMinn, W G (1994) *Nationalism and Federalism in Australia*, p 177. The Braddon Blot was a colloquialism for the financial clauses that were written into the constitution. These were designed so as to provide for at least three-quarters of all revenues from customs and excise to be returned to the states in perpetuity. It was gravely offensive to strong free-traders and resented by delegates from New South Wales who saw their colony cast in the role of fairy-godmother to the rest of Australia. The Tasmanian delegate, Edward Braddon, was the architect of these clauses.

²⁰³ Ibid, p 177. The trouble over the trade and finance clauses reveals that only a light scratch was needed to reveal the colonial politician beneath the federal patriot.

²⁰⁴ Hirst, John (2000) *The Sentimental Nation*, p 201. As Hirst notes, Federalists believed that the island continent (Australia) was the natural boundary of the new nation. Hence Barton's comments: (upon Australia federating) 'for the first time in the world's history, there will be a nation for a continent, and a continent for a nation'.

governments over the course of the twentieth century would have occurred if A I Clark's ideas had been followed. The determination of whether states had the right to levy a consumption tax or other forms of broad indirect taxation has been a continual source of legal tension between the Commonwealth and Premiers since 1901.²⁰⁵

Democratic government and equitable representation for the Australian people was actively discussed at the Conventions.²⁰⁶ Again, states' rights men outmanoeuvred those with a national viewpoint. At the 1891 Convention, it was agreed that members of the state-based House of Representatives should appoint Senators. At the Conventions of 1897-98 the undemocratic nature of the 1891 model was acknowledged, yet states were given equal representation in the Senate, despite the size of their population. Men from the larger colonies, while unhappy about equal representation to the Senate, recognised the practical impossibility of obtaining any other basis if there was to be a states' House at all. This recognition made some anxious to see that it should not be too powerful.²⁰⁷

The House of Representatives was to be the people's house, yet this too was built on undemocratic foundations. Deakinites claim that by the 1890s there was effectively manhood suffrage in all colonies.²⁰⁸ This, however, was not the case. Plural voting persisted in several colonies, along with property qualifications in most of them. By the end of the 1890s, such fetters on the right to vote – at least for the lower houses of parliament – had been reformed or were in the process of being reformed in the colonies, and the franchise was being extended to women (in South Australia only).

²⁰⁵ Botsman, Peter (2000) *The Great Constitution Swindle*, p 30. In Clark's initial draft constitution the formation of the Commonwealth Consolidated Revenue Fund would have meant a simple takeover of state customs, duties and excise laws. How much simpler this would have been than the convoluted and complicated system it has become.

²⁰⁶ Crisp, L F (1974) *Australian National Government*, p 1. At the 1891 Convention, Alfred Deakin, when speaking on the constitution said that 'we should seek to erect a constitutional edifice which shall be a guarantee of liberty and union for all time to come, to the whole people of this continent and the adjacent islands, to which they shall learn to look up to look up with reverence and regard, which shall stand strong as a fortress and be held as a sacred shrine'.

²⁰⁷ *Ibid*, p 18. States' rights men and conservatives saw a strong Senate as a potential bastion against socialism. They hoped at the first Convention (at least) to shape it along lines of colonial Legislative Councils by providing that its members be indirectly elected by the state parliaments in any joint sittings of whose Houses propertied interests would almost certainly carry the day. A states' House handicapped in this manner, they believed, would be well equipped to resist any progressive measures taken it.

²⁰⁸ Irving, Helen (1997) *To Constitute a Nation: A Cultural History of Australia's Constitution*, p 2.

Other fetters were, of course, being added in their place, with the simultaneous denial of the vote to some, although not all, coloured men and women. Although Charles Kingston claimed that he and his colleagues had written 'the most magnificent constitution into which the chosen representatives of a free and enlightened people have ever breathed the life of popular sentiment and national hope'²⁰⁹, too many Australians were excluded from its provisions.

This is hardly a case of universal suffrage! Yet Deakinites still contend that a liberal and democratic constitution was endorsed by voters at the referenda of 1898 and 1899. They conveniently overlook the fact that the fundamental democratic principle of one person-one vote-one value has not yet reached all Australians. In the constitution power and authority is clearly delineated for the governor, yet little is spoken about those who are to be governed: the people. Although Australia has been claimed since before federation to be a democracy, upon further examination this is difficult to justify.

Only five sections of the constitution: 92, 116, 117, 51 (xxxi) and 80, guarantee some of the essential rights needed for a democratic exercise of the vote. Section 92 guarantees absolute freedom of trade, commerce and intercourse throughout the Commonwealth. Section 117 ensures that all subjects of the monarch will be treated equally no matter where they reside in the Commonwealth. Together, these sections add up to complete freedom of movement throughout Australia. In view of the literature about such freedom as the foundation of a national citizenship in a federation made up of pre-existing States, it is quite important. Section 116 guarantees freedom of religion. Section 51 (xxxi) guarantees property rights since even the state cannot take property away from an individual without paying fair compensation when it does so. Finally, Section 80 guarantees trial by jury: a basic tenet in any rule of law.²¹⁰

Rather than appeals to the Privy Council in London, written into the constitution presented to the people in 1898-99 was an Australian High Court as the final court of appeal for Australians. An Australian delegation travelled to London in 1900 anticipating successful passage of their Constitution Bill through the British Parliament.²¹¹ Despite Australians voting in favour of the Bill, British authorities

²⁰⁹ Botsman, Peter (2000) *The Great Constitutional Swindle*, p 26.

²¹⁰ Davidson, Alistair (1997) *From Subject to Citizen*, p 51.

²¹¹ See above: the Australian Constitution was set out in the form of a British Parliamentary Bill.

demanded appeals to the Privy Council be written into it. After agonising over this clause, the Australians surrendered to the British viewpoint. Though the Australian delegation cooperated well with one another on most points, that the need was felt for every colony to have a voice in London is significant. In this instance, the brave and patriotic speeches made about Australians being one nation can ring hollow.²¹²

Constitutional change was another vexed issue at the Conventions. Many at the Conventions doubted the ability of the average person to cope with the complexities of constitutional change. Deakin argued that since the conventions would be saying only 'Yes or No' to proposals, this was something that the people could do equally well at referenda. The referendum proposal was defeated by 9 votes to 19. At the 1897-98 Convention there was much debate about the referendum, which was proposed as a mechanism for settling deadlocks between the Houses. For this it was defeated, with one argument being that the people could not make judgements on complex issues.²¹³

It can be argued that the states' rights men and other conservatives at both sets of Conventions understood that a rigid, restrictive and almost unchangeable constitution was the perfect tool with which to protect their power and authority. Section 128 of the constitution certainly fulfilled this need. Changing the constitution involves satisfying four kinds of majorities. The proposed alteration must be passed by (1) an absolute majority of the Commonwealth House of Representatives, (2) a majority in the Senate or by one House of Parliament twice. If it is passed by the parliament, between two and six months later it must be put to referendum in each state and territory. To be successful a proposal to change the constitution must be passed by (3) a majority of all electors voting (that is an absolute majority of Australian voters) and (4) by a majority of voters in a majority of states. That eight of forty four referenda have succeeded since

²¹² McMinn, W G (1994) *Nationalism and Federalism in Australia*, pp 192-93.

²¹³ Hirst, John (2000) *The Sentimental Nation*. A central theme in Hirst's analysis is that the Australian people were the prime-movers behind the federation movement, and thus central to the development of the constitution.

1901 speaks volumes about the exclusion of proposals to allow ready change to the constitution.

H B Higgins' outburst at the Melbourne Convention of 1898 best captures the imperfections and the weaknesses of the constitution, wrought from successive compromises and concessions. To Higgins:

*A written constitution that cannot be modified is not amenable to moral pressure, to public opinion. It is a dead, lifeless thing which no arts of persuasion can reach. It is not susceptible to growth. In the quick change and movement of the world's development, it is like a dead, leafless log in the summer's bright ray. The Beams of the warm sun play around it in vain. It may smile in his light, but it blooms not again.*²¹⁴

To Higgins, in the wisdom of the Convention the instincts of right government possessed by the great bulk of the population have been trampled upon.²¹⁵ Higgins' reservations were so strong that he could not support the Constitution Bill. He voted against it. Pilloried by Deakinites as an equivocator, one of the unwilling, an anti-federalist, Higgins was one of the few Constitution-makers with the courage to criticise a constitution he believed was fatally flawed.

2.4 The Exclusion of Citizenship

John Quick, Isaac Isaacs, Patrick Glynn, H B Higgins, George Reid or Charles Kingston all spoke on the subject of citizenship at the 1897-98 Conventions.

Constitutional models discussed and analysed at these Conventions included ideas on the citizen and citizenship.²¹⁶ The rights, duties and obligations of the political agent were extensively discussed yet were excluded from the constitution. Although the preamble to the constitution indicated that the colonies were to join together, it did not spell out who the people were or what their status was to be. Without some test of

²¹⁴ Higgins, Henry Bourne (1900) *Essays and Addresses on the Australian Constitution Bill*, p 30.

²¹⁵ Rickard, John (1984) *H B Higgins: The Rebel as Judge*, George Allen and Unwin, Sydney, p 100.

²¹⁶ Quick, J and Garran, R R (1900) *The Annotated Constitution of the Australian Commonwealth*, pp vii-viii. Quick and Garran acknowledge that the American, German, Swiss and Canadian Constitutions all throw light upon the Australian model. Maligned Constitution-maker George Dibbs, also referred to the Norwegian model and its methods of breaking deadlocks between both houses of parliament as an example to follow. It is also likely that delegates to both sets of Conventions would also have been cognisant with the French Constitution.

citizenship, John Quick warned, all the people within the jurisdiction of the Commonwealth of all races, even aliens, will be considered members of this new political community.²¹⁷ Here already it was apparent that the argument for citizenship was motivated by a desire to both augment and to diminish, to spell out and secure the rights of citizenship and to restrict them on racial lines.²¹⁸

A sticking point for Quick was how to create citizens out of subjects, although he was looking at foreign political terrain. A subject he explained is one who, from his birth or oath, owes lawful obedience or allegiance to his liege lord or sovereign.²¹⁹ His reference to Section 117 of the Constitution ('which guarantees a subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Crown resident in such other State'), was a drastically reduced substitution for a clause in the earlier draft constitution which referred to citizens of the emerging Australian Commonwealth.²²⁰

Maybe Quick and other like-minded colleagues knew the constitution they were establishing had not emanated from the popular realm, not from the heart of the people, but was a lawyer's constitution. As noted, Quick came to the rescue by convening a 'People's Convention' in Corowa in 1893. This event saw motions passed which paved the way for legislation to be passed in each of the colonies for the popular election of delegates to future Constitutional Conventions. In this, the popular heroic (Deakinite) version of Australian federation, it was the people who rescued the cause. The High Court now makes this history the basis of citizenship rights it finds in the constitutional cases, the same body that once insisted that the Commonwealth

²¹⁷ Macintyre, Stuart (1997) *A Federal Commonwealth, an Australian Citizenship*, p 4.

²¹⁸ *Ibid*, p 4.

²¹⁹ *Ibid*, p4.

²²⁰ Constitutional Centenary Foundation (2000) *The Australian Constitution (Annotated)*, p 116.

Constitution was no more than a statute and the national government simply institutions established by law.²²¹

As noted, several constitutional models were utilised during the Conventions. Charles Kingston, delegate to both sets of Conventions, championed democracy and an active Australian citizen. He saw in the emerging constitution an opportunity to define a Commonwealth citizenship.

I say we are creating a Commonwealth in which I hope there will be a federal citizenship, and I shall be glad indeed to see the powers of the Federal Parliament enlarged to enable that body to legislate, not only with reference to naturalisation of aliens, but also with reference to the rights and privileges of federal citizenship.

An HONOURABLE MEMBER. *What is the meaning of citizenship?*

Mr. KINGSTON (South Australia) *It is not defined here, but it ought to be defined in the Constitution, or else we ought to give power to the Federal Parliament to define it. And, after having defined what shall constitute Australian citizenship for the purposes of the Commonwealth, we ought to carefully prevent any state legislating in such a way as to deprive any citizen of the Commonwealth of any privileges which citizenship of the Commonwealth confers within its borders. I am prepared to do what I can for the purpose of establishing a common citizenship within the Federation, and giving to each citizen throughout the Commonwealth, irrespective of provincial boundaries, common rights, taking away from the states the power which it is suggested should be retained by each state of singling out citizens of other states of the Commonwealth for special legislation or special disqualification. I go further, and I say that a matter of that sort is a fair subject to introduce into this Constitution – this federal compact.*²²²

Conservatives and states' rights men were the greatest adversaries of liberals and democrats in debates on citizenship. John Forrest is one such example. Premier of Western Australia during the 1890s, Forrest was a staunch conservative and states' rights man. He practised a politics suitable to the period before the Kalgoorlie gold rushes, when the rural community in the 'West' ruled supreme. Forrest sought to regulate the flow of migrants into Western Australia, particularly Chinese and other non-Anglo-Celtic gold miners. His ambivalence toward a national citizenship is unmistakable.

²²¹ Macintyre, Stuart (1997) *A Federal Commonwealth, an Australian Citizenship*, p 6.

²²² Official Record of the Debates of the Australasian Federal Convention, Melbourne 1898, pp 677-78.

In Western Australia no Asiatic or African alien can get a miner's right or go mining on a gold-field. We have also passed an Immigration Act that prohibits even undesirable British subjects from entering the colony. I do not know how this clause will act in regard to these matters, but it seems to me that the word "citizen" should be defined. In Western Australia an alien can hold land in just the same way as he could if he were a British subject – no doubt that is the case in other colonies, probably in this colony – and he would probably think himself a citizen, whatever nationality he belonged to, having resided for a long time in the colony, and having acquired property therein. It is of no use for us to shut our eyes to the fact that there is a great feeling all over Australia against the introduction of coloured persons. It goes without saying that we do not like to talk about it, but it is still so. I do not want this clause to pass in a shape that would undo what is about to be done in most colonies, and what has already been done in Western Australia, in regard to that class of persons. It seems to me that should the clause be passed in its present shape, if a person, whatever his nationality, his colour, or his character may be, happens to live in one state, another state could not legislate in any way to prohibit his entrance into that state. I think there is a great deal to be said against the state being allowed to do that, but until the Federal Parliament legislates in regard to it, it certainly ought to be in the power of the state not only to maintain the laws existing, but also to legislate further if it should so desire.²²³

Richard O'Connor, New South Wales Legislative Councillor, lawyer and close friend of Barton, concurred with Forrest on the issue of citizenship. He was one third of the constitutional triumvirate at the 1897-98 Conventions (with Edmund Barton and John Downer constituting the other two thirds). O'Connor also voted in favour of a strong Senate to offset the power of a popularly elected House of Representatives. His comments on citizenship are instructive.

I have already dealt with the general aspect of this provision [Commonwealth citizenship], but I should like to ask the committee what is meant by the term "citizen"? What rights shall we give to a man as a citizen? If we do not give any definite rights, what is the use of placing in the Constitution a provision that will be a fruitful source of litigation. I should like to say that the citizenship that is aimed at in this amendment is not to be attained by a provision of this kind, but by the comity and friendship that must ensure when we are all one people. Any declaration of the rights of the citizens, and any interference with the local rights of the states in regard to the questions referred to, would be very mischievous.²²⁴

²²³ Ibid, pp 665-66.

²²⁴ Ibid, p 682. The amendment referred to by Richard O'Connor was an amendment to Clause 110 A of the constitution as it stood at the Melbourne Convention on 8 February 1898. It stated that: A state shall not make or enforce any law abridging any privilege or immunity of citizens of other states of the Commonwealth, nor shall a state deny to any person within its jurisdiction the equal protection of the laws. The contentious issue in the debate over this section was the word citizen, which was eventually excluded and replaced by the 'safer' option of subject.

Barton did not wish to burden the Conventions with foreign language or terminology during debates on citizenship. His claim that citizenship was not part of the British tradition was not unexpected.

My doubt is whether we should not rather cumber the Constitution by using the word "citizens," and requiring a definition of citizens when we use it here, and when the ordinary term to express a citizen of the empire might be used. We are subjects in our constitutional relation to the empire, not citizens. "Citizens" is an undefined term, and is not known to the Constitution. The word "subjects" expresses the relation between citizens of the empire and the Crown. But I would like to put this consideration to Dr. Quick, that if we use the term "subject", or a person subject to the laws, which is a wider term, we shall avoid the necessity for a definition of "citizen." You might say a subject or resident being the subject of the Queen. It is far better not to import the word "citizen" here if we can deal with it by a term well known in the constitutional relations of the empire between the Queen and her subjects.²²⁵

It was Barton, the Ultra-Federalist, who halted the debate on the citizen because of a linguistic technicality. Although he was correct in saying that citizenship was not defined in *Stroud's Dictionary*, Barton and his colleagues had used the term citizen and citizenship extensively prior to, during, and after the Conventions.²²⁶

The exclusion of recognition and a statement of the rights of citizens can be linked, in part, to the exclusion of the people from the constitution. Accordingly, the next section is an overview of the people who were excluded from conversations and debates on the road to federation.

2.5 Excluded People

To anti-Deakinites, federation, as an event, was more about self-interest, provincialism and exclusions than it was about devising a nation for *all* Australians. The proscription of class distinction or party influence from the Conventions, conferences and public meetings led to the exclusion of republicans, anarchists, socialists and other radicals from these events. Delegates to the Corowa Conference (the People's Convention) were carefully selected so as to avoid unwelcome comments from undesirable

²²⁵ Ibid, p 683.

²²⁶ Ibid, p 680.

participants.²²⁷ Indigenous Australians were excluded from participating in colonial society. 'Asiatics' and Asians were not to be a part of the new nation. Few women were enfranchised (only South Australian women could vote for the constitution), although many were property owners and taxpayers.²²⁸ Although their stories are conspicuously absent in Deakinite accounts, women were active in the federation movement.

Chief among these was the Women's Suffrage League of New South Wales, the inspiration of Rose Scott.²²⁹ Scott's organisation actively campaigned against the constitution because it contained nothing for women. She swept aside (Chief Justice of New South Wales and 1897-98 Convention delegate) William Cullen's protestations that it was too difficult to place radical new provisions into such a sensitive document, seeing little more than political dilution and reduction in the scope of women's rights that federation seemed to be offering women.²³⁰ Scott's group despised the masculine values of the political domain: selfishness, greed, combativeness, pomposity and inequality.

The formation of another masculine and aggressive nation was anathema to them. A socialism of love and unselfishness was her ideal. Federation as an enterprise was a graphic instance of women not being consulted on matters vital to their living conditions. The relationship between the states and Commonwealth would be like an arranged marriage, Scott mused, with the women of New South Wales most disproportionately exploited because a new array of Commonwealth buildings would be

²²⁷ McKenna, Mark (1996) *The Captive Republic*, pp 188-89. Four weeks prior to the Corowa Conference a meeting to establish Barton's Australasian Federation League had been held at the Sydney Town Hall. A motion moved by a pro-labour crowd for establishment of a federation based on a democratic and republican basis was carried by 2 to 1. Despite this, the chairman declared the previous non-republican resolution carried and the meeting ended in uproar. Attendance at this meeting was several times that at Corowa, yet it receives little recognition in Deakinite accounts. Furthermore, the organisers of the Corowa and Bathurst Conferences ensured that republicans, socialists and other radicals were not able to disrupt these meetings by vetting those who attended them.

²²⁸ Macintyre, Stuart (1997) *A Federal Commonwealth, an Australian Citizenship*, p 3. See also, Macintyre, Stuart (1985) *Winners and Losers*, Allen and Unwin Australia Ltd, Sydney, pp 10-11, for an expansion of these ideas.

²²⁹ Botsman, Peter (2000) *The Great Constitutional Swindle*, pp 42-5. See these pages for a short biography of Rose Scott. Scott's salon included Miles Franklin, Louisa Lawson (mother of Henry), the utopian socialist William Lane and her cousin, David Scott Mitchell, among others.

²³⁰ *Ibid*, pp 42.

borne by women taxed without representation.²³¹ To feminist writers at the time, the marginalisation of half of humankind – women – was unthinkable.²³²

Radical groups who questioned the structures of colonial societies have also fared badly in the Deakinite myth. Although denied a place in Deakinite accounts, for all their failings, they did represent a viable, alternative culture. Socialist, anarchist, single tax societies and other radical groups flourished briefly in the 1880-90s. Many of these groups expressed confidence in the possibilities and beginnings that many at the time believed were imminent, before uncertainty, doubt and mistrust prevailed as a consequence of the brutal clashes between labour and capital. They advanced new conceptions of society, challenged the inequalities of class and gender, promoted republicanism and feminism, while envisaging a new Australian nation in which men and women would be equal and free. Each represented a powerful illustration of the fragility of political and social vision. Such a society never eventuated. By federation, the radicals' influence had dissipated. Socialism, anarchism and republicanism were all renounced by a labour movement committed to industrial arbitration and piecemeal parliamentary reform. The status quo was never challenged. The age of questioning was over.²³³

The exclusion of these voices meant that inequalities of class and gender remained largely unaltered. To Bruce Scates, 'the decentring of the historical narrative, its pursuit of private subjectivities at the expense of lived experience, or social context, has meant that no searching critique of capitalism took place in Australia. Such things, however, raised the political architecture on which to imagine and envisage new forms of society. It can seem that Australians have been left with a past without vision, a history without

²³¹ Ibid, p 45.

²³² Crawford, P and P Maddern (eds) (2001) *Women as Australian Citizens: Underlying Histories*, Melbourne University Press, Melbourne, p 4.

²³³ Scates, Bruce (1997) *A New Australia*, p 206. Scates' account of the radicals is a moving tale of men and women who dreamed of a fairer, more just and equitable nation emanating from federation. They had much to offer the new nation but were brushed aside as utopian dreamers. They are still denied their place in Australian histories.

hope'.²³⁴ Likewise, Stuart Macintyre rues the lost chances of the 1890s and the exclusion of the visionaries, the imaginative, socialist and radical thinkers who could have contributed to the causes of federation and citizenship, had they not been forced to the margins by ruthless and self-interested men.²³⁵

The inevitability of an Australian republic, for example, has been spoken of since the 1850s. How different Australia could have been had it become a republic. In addition, a new critique of citizenship, one not located within the liberal-capitalist, bourgeois state, could have brought a greater degree of equality across all aspects of the Australian state. Imagining a new Australia nonetheless requires more than words or symbols. And it certainly requires far more courage and imagination than the weak and minimalist cliché, that our head of state should be 'one of us'.²³⁶ Henry Lawson wrote of the true republic, one nothing less than a total transformation of state, society and culture.

*The true republic Lawson wrote of was nothing less than a total transformation of state, society and culture. The New Australia envisaged by the radicals of the 1890s was a totalising critique, it challenged class, gender and (less convincingly) racial inequalities. At its centre was a new notion of citizenship – not JUST that Australians were no longer to be the subjects of a distant and foreign Queen, but that every aspect of our political life should become open and participatory.*²³⁷

By the late-1880s republicanism was associated with a virulent anti-British nationalism together with political philosophies like socialism and secularism. It was during these years that a belligerent minority managed to provoke a widespread debate on the republic, an occurrence that Deakinites rarely acknowledge.²³⁸ In the same way that any federation other than that under the Crown was not open for discussion, republicanism was never tolerated by colonial governments, or the police under their

²³⁴ Ibid, p 206.

²³⁵ Macintyre, Stuart (1997) *A Federal Commonwealth, an Australian Citizenship*, p 2.

²³⁶ Botsman, Peter (2000) *The Great Constitutional Swindle*, p 8. As Botsman comments, many Australians are persuaded by the idea of a president elected by the people and don't see the political problems of creating a dual presidential and parliamentary system.

²³⁷ Scates, Bruce (1997) *A New Australia*, pp 207-8.

²³⁸ McKenna, Mark (1996) *The Captive Republic, 1788-1996*, p 10.

control, if it moved beyond 'inevitabilism' to immediate action.²³⁹ The republic was indefinitely postponed. Until 1967, the rights of Indigenous people suffered a similar fate.

Indigenous Australians did not count in colonial Australia.²⁴⁰ Issues of patriarchy, racism, discrimination and Anglo-centrism buried their plight. Indigenous Australians were treated like children and held in contempt, taken by white men to be little better than savages. Their very existence was threatened, as bureaucrats and administrators 'smoothed the dying pillow' for a race soon to be extinct.²⁴¹ The advent of an Indigenous consciousness, a philanthropic interest by a few considerate white folk and issues of self-determination, land rights and autonomy, have given them some hope for the future. The interests of Indigenous Australians was definitely not on the agenda during the Conventions of the 1890s. The fact that this is rarely discussed in accounts of federation and constitution-making is indicative of the effect racism has had on the Australian psyche.

To Tim Rowse, the language of oppression has always coloured discourse on Indigenous rights. Indigenous peoples have had to compete for their own self-identity and survival within the liberal-democratic cultural framework, one alien to their world views. This framework has no place for communal rights. The individual is placed in centre stage, particularly in analyses of human rights. Indigenous ideas regarding property and land ownership, identity and the individual's relationship to the polity or state, are also at odds with Anglo-Celtic legal thinking. Predictably, the Australian legal system has always had difficulty categorising communal rights to land within the

²³⁹ Ibid, p 198.

²⁴⁰ Constitutional Centenary Foundation (2000), *The Australian Constitution (Annotated)*, p 124. Section 127, repealed in 1967, stated that: In the reckoning the numbers of people of the Commonwealth, or of a State or part of the Commonwealth, Aboriginal natives shall not be counted.

²⁴¹ Rowse, Tim (2000) 'Indigenous citizenship', in Hudson, W and J. Kane (eds) *Rethinking Australian Citizenship*, Cambridge University Press, Melbourne, pp 86-99. Rowse outlines the difficulties and the impediments placed in the path of Indigenous Australians as they attempted gain belonging in their own land, one stolen from them by the British.

prevailing discourse and ideology.²⁴² Equality, a fair go, and social, political and social citizenship, all need addressing if Indigenous Australians are to become actively functioning citizens. Indigenous and Asian people share a similar 'place' in the federation story.

The incompatibility of Asian (particularly Chinese) and British people was an important factor in development of the Immigration Restriction Bill, which was the first piece of legislation passed by the Commonwealth Government. The majority of policy-makers during the 1890s believed that non-Europeans were inferior to the British. During the debate on the Immigration Restriction Bill in the Commonwealth Parliament in 1901, Edmund Barton stated this unequivocally:

*I do not think that the doctrine of the equality of man was really ever intended to include racial equality. There is no racial equality. These races are, in comparison with white races.....unequal and inferior. The doctrine of the equality of man was never intended to apply to the equality of the Englishman and the Chinaman. There is a deep-set difference, and we see no prospect of and no promise of its ever being effaced. Nothing in the world can put these two races upon an equality. Nothing we can do by cultivation, by refinement, or by anything else will make some races equal to others.*²⁴³

Deakin concurred with Barton on the issue of race, telling the House of Representatives that the unity of Australia is nothing if that does not imply a united race.²⁴⁴ Deakin's statement encapsulated the vision of Australia that demonstrated that the exclusion of those 'inferior' races was fundamental to the character and composition of a federated Australia.

The hordes from the north bore the brunt of Australia's racist policies. To Anglo-Celts, the Chinese would undermine Australian standards of living by labouring for reduced wages in poorer working conditions and would contaminate British blood if inter-marriage took place. To policy-makers, the Chinese did not have the capacity to

²⁴² Ibid, pp 93-96.

²⁴³ Dutton, David (2002) *One of Us? A Century of Australian Citizenship*, University of New South Wales Press, Sydney, p 28.

²⁴⁴ Ibid, p 24.

become fully-fledged Australians.²⁴⁵ Even Qong Tart, unofficial Chinese Ambassador to Australia, prominent Sydney resident, an exemplary 'citizen' in the Deakinite myth, could not gain full rights. He was afforded respect by Anglo-Australians but could never become 'one of us', an Australian.²⁴⁶

If as I have claimed, federation and constitution-making were built on exclusions, then Australians may have missed opportunities at social reform and the apparent diminution of the collective imagination as a consequence. It is not difficult arguing that once the imagination and vision of the radicals were banished to the margins of colonial society, the chance to forge a fairer Australia vanished forever. Moreover, the sort of person that the Constitution-makers envisaged participating in the polity and within society is present by default. As explained above, the view that the 'great unwashed' (the masses) were believed incapable of grasping the complexities of affairs of the state was common among influential Constitution-makers. For example, Sir Samuel Griffith believed that the people would have difficulty dealing with complex issues like constitutional amendment.²⁴⁷ When taken in this context, a minority of Australians appear to have been the beneficiaries of the constitution.

2.6 Conclusion

Rather than a triumphal journey to federation, constitution-making was characterised by compromises and concessions that reflected or produced a series of individuals, groups and ideas that were excluded from Deakinite stories of federation, often for reasons of political exigency. Anti-Deakinites acknowledge that compromises had to be made in bringing about federation. Men with a national viewpoint, they believe, often acquiesced to states' rights men whose primary interest was a good deal for their state or colony. Anti-Deakinites are critical of the heroes in Deakinite accounts, the

²⁴⁵ Scates, Bruce (1997) *A New Australia*, pp 159-62. See the section titled 'Racism and the Politics of Exclusion, for an expansion of these ideas.

²⁴⁶ Irving, Helen (1997) *To Constitute a Nation*, pp 105-7.

²⁴⁷ Hirst, John (2000) *The Sentimental Nation*. A central theme in Hirst's analysis is that the Australian people were the prime movers behind the federation movement, and thus central to the development of the constitution.

Ultra-Federalists, believing that these men would have federated any time after 1891 with an undemocratic and illiberal constitution.

In anti-Deakinite accounts, Constitution-makers excluded from Deakinite accounts are given their 'voice'. Invariably liberals and democrats, these men sought to modify a flawed constitution, attempting to make it more just and equitable for the Australian people. These men were more than equivocators, those of little faith, as portrayed by Ultra-Federalists and successive Deakinites. Positions taken by Constitution-makers at the Conventions and discarded by them, for whatever reason, are also analysed by anti-Deakinites. Again, states' rights men badgered their way to successful outcomes for their colony, thinking little of the greater good for all Australians. Exclusion of citizenship from the constitution was a deliberate political act by conservatives intent on retaining middle-class hegemony, while stifling working-class ambitions for a voice in the polity.

Stories of those people excluded from the Deakinite myth are told by anti-Deakinites. Socialists, republicans, anarchists and other radicals had much to offer the federation debate but their voice is rarely heard in mainstream accounts. Women were active in the federation movement however the trivialisation of their efforts has led to their exclusion from the journey to federation. Aborigines were non-people in their homeland, written out of existence by the Constitution-makers. In Deakinite accounts Aborigines, Asians (particularly Chinese people) and other foreigners bore the brunt of racist policies across the colonies and the new nation. Few of the people mentioned above benefited from the constitution.

What the Constitution-makers put in place (the constitution) was not to be destabilised. They devised a constitution for the inclusion of the few and the exclusion of the many. This was particularly so after the bitter and acrimonious industrial confrontations

between labour and capital during the early-1890s. Fear of the working classes winning political power via the ballot box saw a very limited democracy conceived for the new Australian nation. The citizen was absent from the polity. Nothing was written into the constitution on the obligations and rights of the political agent. A rigid, restrictive and almost unchangeable constitution was the perfect tool to protect middle-class hegemony. Such things do not feature in the Deakinite myth. The next two chapters develop a backdrop against which the constitution was written – colonial societies polarising along class-based lines, largely as a consequence of industrial turmoil not seen before, or again, in Australia.

Chapter 3 – Class, Politics and Society

3.1 Introduction

Deakinites, like many Australians, downplay the role of class in Australia, with many believing it to be something that belonged in Britain or Europe. This overlooks the rich and colourful British heritage that arrived with the First Fleet. Colonial political, social and economic systems were all refractions, if not reflections, of those in Britain, as were the cultural habits, mores and traditions that were practised in the colonies. The Westminster system of government and the common law both defined the legal systems that were instituted during the nineteenth century and still guide us to this day.²⁴⁸ The notion that the effects of class inherent within these systems were proscribed on their introduction into Australian political, social, legal and economic systems is fanciful.

As successive waves of British migrants landed on Australian shores they brought with them ideas derived from an hierarchical and class-based social system. On arrival these ideas did not simply vanish into thin air. From 1788 Australian colonial societies developed as microcosms of British society.²⁴⁹ What was missing in the colonies, which made them different from that in Britain, was an upper class. This absence has been a contentious issue in analyses of class in Australia.²⁵⁰ Important in any examination of class in history, however, is to study the class order as a whole, not a particular class, and not just a particular aspect of class.

²⁴⁸ Salvaris, Mike (2000) 'Political citizenship', in Hudson, Wayne and John Kane (eds), *Rethinking Australian Citizenship*, Cambridge University Press, Cambridge, pp 80-1. Any debate or discussion on the institutions and traditions that underpin Australian government and issues of governance, must begin with the influence the British heritage has had on these.

²⁴⁹ Maddox, Graham (1987) *Australian Democracy in Theory and Practice*, Longman Cheshire House, Melbourne, pp 80-1. The brief political history of Europeans in Australia offers a microcosm parallel of the slow evolution of institutions in Britain. The first colonies began as penal settlements and the discipline for most of those transported resembled that of the harshest gaols in Britain. Despite many Australian historians maintaining that the colonies were first governed under the autocracy, or the despotism, of appointed governors, this viewpoint is not entirely valid. To the casual observer looking back over the intervening period this may seem a reasonable view, but it is certainly superficial.

²⁵⁰ Connell, R and T. Irving (1992) *Class Structure in Australian History*, p 11. Though most Australians can readily place themselves in a 'class when asked to do so in a poll, the fact never fails to attract journalistic gasps. There is a longstanding doctrine that Australia is different, that the social divisions of Europe and Britain were not reproduced here.

As Connell and Irving aver, one cannot write the history of a working class without presupposing a ruling class and a labour market, however shadowy these become in many institutional histories of unions. This point is not controversial, yet the question of how to write the history of a social order as a whole is not often addressed. It is simpler to assume, as many do, that the basic principles of capitalist society remain much the same and can be taken for granted. What must be remembered, though, is that theories and ideas and class point to the Euro-centrism of the classical model of capitalism, a focus that has persisted even when a model of 'imperialism' was added to these in the twentieth century. Nor has the problem entirely vanished from currently influential theory. It is rare to find a European or North American theorist of class who has much to say about events outside these two continents.²⁵¹

One theorist who attempted to reconstruct the principles that have given shape to class in the 'fragments' of British and European cultures is Louis Hartz. As Hartz noted, those who find themselves in these fragments of European and British cultures do all in their power to hide their European or British origins, the ideological character of the 'homeland' or the heritage that had arrived with the first settlers. In addition, these fragments are claimed to be the greatest spirit of nationhood, greater in every way than the corrupted and class-based societies languishing in the Old World. In defining itself, the fragment moulds and shapes the 'essence' of that which it has denied (its Old World heritage) into a new nationalism. In Australia's case, this was shaped into a national legend of mateship, radical egalitarianism and equality.²⁵² Hartz continues:

When a fragment of Europe becomes the whole of a new nation, it becomes unrecognizable in European terms. We must not assume, because the fragment cultures do not shout out at us the European terms feudal or liberal [or for that matter, class], that the European ideologies are not there: they have lost the need for shouting, which is proof of the new conservative power that fragmentation has given them. Of course there is some intrinsic complexity here. None of the new societies is exhausted by an ideological category, whatever it is. Not only are there "imperfections" in this respect, as when feudal remnants cling to the

²⁵¹ Ibid, pp 6-7.

²⁵² Hartz, Louis (1964) *The Founding of New Societies: Studies in the History of the United States, Latin America, South Africa, Canada and Australia*, A Harbinger Book, Harcourt, Brace, & World, Inc, New York, pp 10-11.

*American fragment or capitalist Whiggery to the Australian, but there are a wide variety of factors alien to ideology which can twist it out of shape.*²⁵³

When a fragment detaches itself from this context, and makes it master of a whole region, all sorts of magic inevitably take place. As Hartz maintains, by the time they are through, the European ethic, so familiar to those on the streets of London or Paris, has been buried almost completely.²⁵⁴ One of the greatest pieces of 'magic' to take hold in the Australian fragment was the development of a two-tier class system (a working-class and a middle-class) instead of the British and European variant of a three-tier system (including a working class, a middle class and an upper class).²⁵⁵

Despite the absence of an 'upper' class in Australia, clear social, political and economic demarcations did separate the working class from the middle class. With the advent of constitutions and other fledgling democratic processes which were put in place by the British Home Office during the 1850s, colonial social, political and economic structures remained largely unchanged up to federation in 1901. It is these democratic impulses that seem to have been the bases for the myth that colonial societies were classless, egalitarian and equitable ones, something that has been perpetuated ad nauseam by many commentators and historians.²⁵⁶

That class was a potent societal force across all aspects of Australian colonial societies is hard to deny. The 1890s witnessed the most widespread and severe industrial action the colonies had experienced, when the forces of capital challenged the bourgeoning labour movement. To the working-class leadership, the bitter and acrimonious industrial confrontations of the 1890-95 period were a necessity if a fairer

²⁵³ Ibid, pp 4-5.

²⁵⁴ Ibid, p 5.

²⁵⁵ Reynolds, Paul, L. (1991) *Political Sociology: An Australian Perspective*, Longman Cheshire Pty Ltd, Melbourne, p 137. As Reynolds notes, class in Australia has always been a contentious issue. Writers of the Left have often found difficulty in accommodating the middle class within Marxist theory. In Ruling Class Theory, in particular, these writers have trouble locating an amorphous and nebulous middle class in the Australian class system, particularly as this theory acknowledges a three-tier class system. To many writers of the Left, class in Australia has been premised on a working class (proletariat) and a middle class (bourgeoisie.)

²⁵⁶ Rickard, John (1976) *Class and Politics*, pp 305-6. Rickard believes the absence of an upper class from Australia is a matter of semantics, not an indicator of the absence of class altogether.

and more just society was to be established for all Australians. The middle classes reacted to what they believed was a working-class challenge to their power and authority. The longer the industrial actions continued the more colonial societies became polarised along clearly delineated class lines.²⁵⁷

Unquestionably, the greatest determinant of class consciousness in Australia during the nineteenth century was the economic structure that underpinned colonial societies. Based on the principles of liberal-capitalism (which the colonies had embraced by the 1890s), the middle classes controlled the means of production, distribution and exchange. Workers sold their labour to employers who determined wages and conditions of work. Ownership of private property, capital and other material assets, largely determined the location of the individual within the social structure. These also influenced access to education, health, location of workplace (whether in rural or urban centres), the condition of housing, the suburban habitat and the opportunities for social mobility.²⁵⁸ Although middle-class liberals may have believed that they were best equipped to alleviate societal inequalities, hardship and suffering, they were largely abandoned by the working class when the working-class leadership began the search for solutions to their own problems.

Although democratic processes had been established during the 1850s, for the working classes these were very limited in their application: the quantity of the people's material possessions, private property and other economic assets determined whether they could vote. Politics was for middle-class men who had the financial means and networks to support a life in politics. Prior to the payment of parliamentarians, which

²⁵⁷ Fitzpatrick, Brian (1944) *A Short History of the Australian Labour Movement*, Wilke and Company, Melbourne, pp 64-89. Fitzpatrick's history of the Great Strikes is an avowedly labour history. Nonetheless, it is a dramatic and moving account of an intense and acrimonious industrial conflict, not seen before, or since, in Australia.

²⁵⁸ Swain, Shurlee (1985) 'The poor people of Melbourne', in Graeme Davison, David Dunstan and Chris McConville (eds) *The Outcasts of Melbourne*, Allen and Unwin, Sydney, pp 102-4. During the 1890s the impact of poverty was compounded by its geographical location. Distress was keenest in those suburbs where the working class had chosen to reside. But the poor had little other choice. They had to live close to their work and in those areas that were avoided by the more fortunate. Residential location was often a determinant of educational outcomes, health and general well-being. See also, Connell, R and T Irving (1992) *Class Structure in Australian History*, pp 126-9.

began in Victoria in 1871, a franchise based on considerable material and economic ownership precluded most workingmen from seeking election to colonial Legislative Assemblies. Electoral malapportionments and hefty financial and property requirements also denied them access to colonial Legislative Councils (one of the most exclusive 'clubs' in colonial Australia).²⁵⁹

With workingmen finding their way into colonial parliaments (beginning in New South Wales in 1891, Victoria during 1892, and during the later-1890s in both Queensland and South Australia) the working-class voice began to be heard. Working-class men representing working-class constituents, espousing working-class ideas - ones that were opposed to middle-class visions of society - saw colonial politics rapidly develop along class lines.²⁶⁰ By 1910 politics had been revolutionised throughout the Australian Commonwealth. A two-party system of politics had been firmly established, supported by professional party machines. These had not suddenly appeared in the early years of the twentieth century, rather they had been carefully constructed during the 1880-1890s and blossomed under favourable conditions associated with the implementation of a national government in 1901.²⁶¹

This chapter is divided into three sections. The first section, *Class in Australia*, is focused on class in the Australian context. Although many of those in successive generations have participated in the belief that Australia has never suffered from the vagaries of class, that egalitarianism, equality and a fair go for all have been the

²⁵⁹ Maddox, Graham (1987) *Australian Democracy in Theory and Practice*, p 145. The constitutions enacted between 1850 and 1856 contained progressive and often radical elements for the time. The colonies were given bicameral legislatures, and in Tasmania, South Australia and Victoria, which had become a separate colony in 1850, the local populations favourably received the forms established. South Australia immediately adopted manhood suffrage and New South Wales followed suit in 1858. Despite these advances all colonies expressed annoyance, particularly radicals, democrats and republicans, at the privileges retained by the upper House of Parliament, the Legislative Council, which was held to be a fortress of property ownership and educational advantage. In elections for the lower house, plural voting, that is, a system by which any man holding property worth 50 pounds in any electorate could record a vote in that electorate as well as the electorate in which they lived, persisted until 1893. Curiously, the gerrymander had been abolished in South Australia in 1856.

²⁶⁰ Gollan, Robin (1966) *Radical and Working Class Politics*, p 150. Labour parties whose political policies bore little evidence of the socialist objective arose out of a trade union movement for which an idealist socialism had acted as a cohesive ideological force. The labour parties implemented policies of a kind that had been supported by radicals before the development of militant trade unionism had made a labour party possible. They were able to do this because their union origins had given them a cohesion that was lacking in other colonial political parties. This also sharpened the class consciousness of not only labour politicians but also the people they represented.

²⁶¹ Rickard, John (1976) *Class and Politics*, p 307.

distinctive features of the social landscape, this is far from the truth. In this section I argue that class has been a pervasive force at all levels of Australian society since the British arrived in 1788. In *Class and Society*, the second section, economic aspects of colonial societies and the influences these had on the development of class consciousness are examined. Here I will argue that the economic structures that successive middle-class administrations put in place in each of the colonies were amongst the greatest determinants of class-consciousness.

As already noted, prior to federation in 1901, the working class were effectively powerless in the political sphere. The political system had been established by the middle class during the 1850s when a limited form of representative government was introduced. The third section, *Politics and Class*, is largely focused on the working-class leadership and their efforts in establishing a political voice for their constituents. With colonial labour parties combining to form the Australian Labor Party after 1901, and opposing political parties becoming known as anti-labour, politics in Australia had taken on class-based hues. At the end of the chapter it is hoped that the reader will begin to appreciate that class has been a powerful and influential force in the formation of Australian society, whether this is understood from an economic, social or political perspective.

3.2 Class in Australia

Visitors to the Australian colonies (in particular, British visitors) recounted their interactions with the locals and often remarked on the lack of class consciousness among the people. Because the working-class individual did not doff his/her hat to, nor defer to, their supposed class superiors, successive visitors (and locals) assumed that class and class-consciousness did not exist in Australia. English visitors also noted that Australian servants had a reputation for independence. To their astonishment many servants refused to serve dinner on Sunday evenings, and took their annual

leave at a time of their own choosing. In all, Australian servants showed little of the deference that their English counterparts gave their families as a matter of course.²⁶² The idealisation of the bushman and his supposed egalitarianism, ideals of equality and mateship, has also led many commentators, both local and foreign, to claim that class had been eliminated, or did not exist, in the colonies.²⁶³ Arguably, few of these individuals had looked beyond their brief interactions with a small number of the colonists.

If visitors (and locals) had taken the time to scrutinise the sharply growing economic divides between people in the burgeoning liberal-capitalist society they may have drawn very different conclusions. The availability of education, the polarisation of cities and towns into wealthy and poor neighbourhoods, differences in working and living conditions, a lack of social mobility and the very limited democracy that had evolved at the time (one that excluded most women and many working-class men) attest to this. All were clear indicators that differences *did* exist between differing sections of colonial society. Class was alive and well in the Australian colonies.

Class as a word, or term, that is laden with echoes of social upheaval and imminent revolution can sound strange, somehow foreign, in the Australian context. Seemingly, class was something that had been left in the 'old world' countries of Britain, France, Germany or some other distant European nation. Most of those in the Australian colonies believed that Australia had been fortunate enough to have escaped the scourges of class, that ill-begotten curse that had threatened to split Britain and Europe asunder during the preceding centuries. A strong belief in the levelling tendencies of colonial society had supposedly created a social system that was not cognisant of

²⁶² Rickard, John (1976) *Class and Politics*, pp 289-92. See these pages for a colourful description of the supposed absence of class in the colonies of New South Wales and Victoria.

²⁶³ Ward, Russell (1958) *The Australian Legend*, Oxford University Press, Melbourne. In Ward's analysis the nomad bushman is idolised, seemingly the apotheosis of Australian manhood. Shearers are also held in high esteem despite their penchant for drifting from shearing shed to shearing shed, largely dismissive of the responsibilities of domestic life and its associated responsibilities. Ward's opinions reflect the Australian preoccupation with the virtue and dignity of manual work, of 'getting one's hands dirty'.

class or a possessor of class-consciousness; or so it was often claimed. An exploration of class does reveal that it is about the lived experiences of humans in the social context. Whether social and economic conditions in colonial Australia were all that different from other countries has been a contentious issue among analysts and theorists.²⁶⁴

To eminent English historian E. P. Thompson, class is about the experiences of real people. It is about the constraints individuals experience in their lives or about the power they wield over others; it also concerns ideas they have on the amelioration of, or reinforcement of, these powers – depending on which side of the class divide they reside. Class is also about the experience of collective action for a cause or aim, about group formation to achieve such aims. Most fundamentally, class is a social dynamic, a kind of historical process in which a real world is transformed. Above all else class is the expression of a group of people acknowledging a common position within the economic and social sphere.²⁶⁵

Thompson believed that class was a historical phenomenon, a 'force' that unified a number of disparate and seemingly unconnected events, both in the raw material of experience and in consciousness. Additionally, Thompson did not treat class as a 'structure', nor even as a 'category', but as something that happens (and can be shown to have happened) in human relationships. The finest-meshed sociological net cannot give us a pure specimen of class any more than it gives us one of deference or love. The relationship must always be embodied in real people and in a real context.²⁶⁶

Likewise, to Australian political theorists, Bob Connell and Terry Irving, class is not an abstract thing but is something which is expressed by and in human relationships. It is

²⁶⁴ Rickard, John (1976) *Class and Politics*, pp 1-3. See these pages for an overview of John Rickard's ideas on class in the Australian context.

²⁶⁵ Thompson, E P (1968) *The Making of the English Working Class*, Pelican Books, London, p 9.

²⁶⁶ *Ibid*, p 2.

about how humans experience the world around them. For them, class can be experienced as a structural constraint, in collective action, or about group formation. Most fundamentally, class is a social dynamic, a kind of historical process, in which a society is transformed. Above all else, for Connell and Irving, it is the expression of a group of people acknowledging a common position in the social sphere. Such things were important in the shaping of colonial societies, as both middle and working-class individuals developed their consciousness both as a consequence of their own experiences and as a consequence of the actions of their class antagonists.²⁶⁷ As was suggested above, to think of class as something foreign to Australia is to ignore much of our heritage, which was and is one steeped in British traditions, culture and institutions.

For all their similarities, the colonies of the 1890s were separate entities, each with its own economy, interests and concerns, and its own political structure. By 1910 there had emerged an Australian society that was much older than the mere passage of twenty years would suggest. Class patterns, previously blurred by the shifts and movements of rapid social change, had become clearer. In place of the fragmented politics of the 1890s, by 1901 a comparatively rigid two-party system operated in both the Commonwealth and the states. In the process, labour and anti-labour had become irrevocably bound to each other as polar-opposites. Yet our oldest political organisation, now a hundred years old, is a labor party, and its opponents are still described as anti-labor. This order is now so firmly established that it is difficult imagining Australian politics differently.²⁶⁸

The political system – the practices and organisations, unions, employer groups, political parties, parliaments, parliamentary practices - all reflected British images.

²⁶⁷ Connell, R and T Irving (1992) *Class Structure in Australian History*, pp 1-6. Connell and Irving acknowledge the plethora of theoretical frameworks that have attempted to explain class. As they concede, a historical investigation will not simply choose between the various 'aspects' of class but will study their interconnectedness. In this, the class order must be viewed as a whole, not only one aspect of class, or one particular class.

²⁶⁸ *Ibid*, p 1.

Colonial economies were tied to British financial institutions, ones that provided individual colonies with their capital requirements. Not surprisingly, financial practices in the colonies were mere copies of those in Britain. If the British economy experienced recessionary conditions or other such maladies, the Australian colonies also felt the full force of these. Once private property had become protected by law and enshrined in constitutions, as happened in the colonies by the 1890s, class issues prevailed.²⁶⁹ The pattern of ownership of land, the machinery necessary for industry and capital led to the development of divisions between capitalists and those who sold their labour to the capitalists.

Since their inception, the colonies had taken on British social traditions, reflected in the customs, cultural habits, attire, literature and manners of the inhabitants of the colonies. It is difficult to deny that the formation of class had arrived with the first white settlers in 1788. Whether free settler, soldier, convict or governor, each had brought with them ideas about their experiences 'back home' that would have been based around hierarchy and class. It is difficult to see what other paradigm the colonists could have utilised in developing their societies, other than class-based ones. That they structured their societal systems according to the rules, regulations and laws they brought with them is easy to understand. If nineteenth century Australian society was constructed in the British image, then believing that class was absent from these societies is a delusion.

If an intelligentsia had been established in the colonies during the early years of the nineteenth century a restructuring of the social order might have been possible. But as Australia's institutions and organisations were established in the crucible of the harshest cross-class relations possible (a governor; military officials; convicts; a few

²⁶⁹ Held, David (1984) *Political Theory and the Modern State*, Polity Press, Cambridge, p 33. By defending private property the state has already taken a side. It has take a side favourable to property owners – that is, (in Australia) the middle classes. The state then is not an independent structure or set of institutions above society, that is a public power activity for the public. It is linked to particular interests and deeply embedded in socio-economic relations.

free settlers; Aborigines) it was only logical that class would be a major component of the social system. Although the social system did not include an upper class, John Rickard maintains 'that there need be no embarrassment about the linguistic difficulty of having a middle-class which is not in the middle. We should not be imprisoned by the meaning of words. The term middle-class was usually applied in Australia with the class structure of English society in mind as a standard, and in this sense it was observed that there was no upper class in Australia'.²⁷⁰ From whatever perspective British influences on the development of class in the colonies are examined, they were enormously influential.²⁷¹

Although Deakinites claim that Australia was not affected by the vagaries of class, whether Australia was the social laboratory of the world, a workingman's paradise during the 1890s remains a contentious issue.²⁷² Working conditions and wages in some skilled trades may have been better than those in Britain, however extensive sections of the working class struggled to survive amid poverty, deprivation, sub-standard housing and growing financial inequities produced within burgeoning colonial liberal-capitalist economies. According to Alistair Davidson, with the turn of the 1890s, the liberal-bourgeois controlled the economy and politics and determined the social agenda. The institutions and agencies of control they had constructed meant that those who strayed from acceptable norms of behaviour were forcefully reminded of their transgressions. The hegemony of middle-class ideas was complete.²⁷³ Despite

²⁷⁰ Rickard, John (1976) *Class and Politics*, pp 305-7.

²⁷¹ Connell, R and T. Irving (1992) *Class Structure in Australian History*, p 38. It is difficult to deny that the British traditions of class and hierarchy evolved in Australia. The British influence was readily seen across colonial societies, manifested in the customs, cultural habits, attire, speech, literature, politics and the legal system, among other things.

²⁷² Buckley, Ken and Ted Wheelwright (1988) *No Paradise for Workers: Capitalism and the Common People 1788-1914*, Oxford University Press, Melbourne, p 10. Although it is true that Australian workers during the 1890s were less downtrodden than were those in Britain, Europe and the United States of America, unemployment was still rife, much of the work was casual or seasonal by nature and hardship and destitution still visited many working-class individuals and families.

²⁷³ Davidson, Alistair (1991) *The Invisible State*, p xv. From this standpoint, the history of colonial Australia must be read as an attempt by Britain to create a modern state with an ordered, civilised, uniform citizenry, located within a class-based social system. It is legitimate, however, to see the construction of that state as one of the purest and most successful examples of hegemonic modern state building, but only bizarre lessons in civics could be learnt for that very reason. As the bulk of its inhabitant until 1840 were convicts and therefore civic nullities, the state could logically only be despotic and the only participants in law making were therefore the tiny elite of the despot and his courtiers. See also: Connell, R and T Irving (1992) *Class Structure in Australian History*, p 107, for an expansion of these ideas. Ted Buckley and Ken Wheelwright argue similarly in Buckley, Ted and Ken Wheelwright (1988) *No Paradise For Workers*, p 49. It should never be forgotten that the initial stage of accumulation is crucial and that it was accomplished in

this, mass demonstrations by the working classes were not uncommon during the 1890s.

To Connell and Irving, the 'smooth' accounts of history often presented by historians of both the Left and Right ignore the role of collective violence and mass demonstrations in the period of working-class mobilisation during the 1890s. In union towns such as Broken Hill workers often took mass action to combat the power of the state and capital. They commandeered transport, reconnected vital services to houses whose occupants were behind in payment of rates, prevented the repossession of furniture and other household goods and harassed miserly landlords.²⁷⁴ Private and state property was attacked (hotels and court-houses were favourites), as were 'scabs' and policemen.²⁷⁵ In Melbourne, Sydney and other larger towns, mass demonstrations were catalysts for the enactment of repressive laws, amid middle-class fears of social upheaval. Early closing of shops and hotels, nightfall curfews and bans on public gatherings were typical examples of these repressive laws.

Collective violence, or perceptions of it, had become so prevalent during the 1891 shearers' strike in Queensland that W G Spence (leader of the Australian Workers Union) made secret contingency plans with his capitalist counterparts to prevent the workers taking possession of the country.²⁷⁶ What Deakinites, in particular, fail to recognise is that the activists were protesting as a class in these instances of collective action. That is, working-class people were challenging the imposition of middle-class

Australia by a form of police state, or military dictatorship, which extracted the surplus over subsistence from unfree labour. The use and control of state power was absolutely central to the process. Attempts to portray the genesis of capitalism in conventional terms of the growth of the market are false.

²⁷⁴ Connell, R and T Irving (1992) *Class Structure in Australian History*, p 132

²⁷⁵ Scates, Bruce (1997) *A New Australia*, Chapter 5. Throughout this chapter Scates discusses the effects that poverty and protest had on colonial societies during a period of mass unemployment in the 1890s. The working classes, who were the most affected by the economic recessions of the 1890s, vented their anger at the capitalists and the society they had built. Middle class people were reacting, somewhat fearfully, to events that had not been seen before in the colonies: mass demonstrations and mob violence on a large scale.

²⁷⁶ Connell, R and T Irving (1992) *Class Structure in Australian History*, p 132. See Spence's discussions with leaders of the Australian Labour Federation (an employer's group) during his train trip between Adelaide and Melbourne in 1891 about actions to be taken should the workers attempt to take possession of the country as a consequence of outcomes of their strike actions across the Eastern States. Although these fears appear to have been exaggerated, they do indicate a hardening of class consciousness among the workers, the employer groups and the middle class generally, as all sought to press for their advantage during these troubled times.

institutions of power and authority upon their daily lives.²⁷⁷ In light of this, it is difficult to understand why Australia is often portrayed as having always been a nation free of class and class-consciousness.

Deakinites are dismissive of class as they rarely acknowledge it as having been an active agent within colonial Australian society, or a potent force of change.²⁷⁸ During the latter decades of the nineteenth century, political, economic and social issues were important indicators in the development of class-consciousness. The rapid convergence of disparate employer organisations between May and September 1890 into a coherent and unified body to oppose the militancy of a burgeoning union movement attest to this.²⁷⁹ Labor's political successes, in New South Wales in 1891, followed later in Victoria, Queensland and South Australia, are further examples of this. These were all catalysts in the development of a politics of class, witnessed in the formation of the polar-opposites of labour and anti-labour.²⁸⁰

The economic disparities between middle and working-class citizens were the clearest, the most visible aspect of class differences. The division of suburbia into middle and working-class areas, sub-standard housing for many working-class families, a lack of amenities in poorer suburbs and differing levels of health between middle and working classes were real and present issues for colonial Australians. Differences in educational opportunities which largely determined the life chances for middle and working-class youth, also served to highlight a growing awareness of class differences

²⁷⁷ See above comments by Bruce Scates.

²⁷⁸ Birrell, Bob (2001) *Federation: The Secret Story*, 13, 15. Birrell maintains that Deakin and his federal supporters were both by political necessity and inclination committed social democrats. They expressed these ideals around the theme that Australia was to become a 'new world' free of 'old world' social divisions in which all could look forward to the achievement of citizenship rights. Such ideals provided a rallying point for the diverse electoral coalition they constructed. There were to be no 'second class' citizens in Australia (according to Birrell.) Additionally, a perusal of the indexes of John La Nauze's, *The Making of the Australian Commonwealth*; John Hirst's *The Sentimental Nation*; and Helen Irving's *To Constitute a Nation*, reveals no mention of class.

²⁷⁹ Rickard, John (1976) *Class and Politics*, pp 31-2; 167-75. Working-class solidarity presented a major challenge to middle-class minds. With the working class (largely) organising in support of their unionist counterparts during the strikes of the early-1890s, the employers (middle class) had to consider not only the striking unionists, but also the working class, in new and different context. The only way the forces of the middle class could effectively challenge the working class and the unionists was to combine as one among their own.

²⁸⁰ See page 118 of this thesis for Connell and Irving's comments on the development of a class-based system of politics in Australia.

within discrete sections of society.²⁸¹ It can also be argued that the industrial confrontations of the early 1890s served to exacerbate these tensions.

The relative stability of the class system in Australia during and after the 1890s might be behind the assumption that Australian society has always been based on social egalitarianism. Yet it is this very egalitarianism which has given class in Australia its distinctive, yet paradoxical flavour. Although some have maintained that democratic manners have diluted class hostility because they deprive it of the social distance that supports it, this is a questionable assessment of class in Australia. The relative lack of social status has encouraged class bitterness, because it makes class barriers when they have developed, seem all the more insupportable. As John Rickard explains, in some societies social distance may imply social deference, which of course militates against class hostility. In this sense, the relative absence of social distance in Australia has removed a barrier to the development of class-consciousness.²⁸²

It can be argued that the absence of social distance in Australia has only ever been relative, that the highly cherished myth of egalitarianism has always been a myth. Egalitarianism became a continuing set of rituals that did not necessarily correspond with social facts, and for these reasons were clung to all the more.²⁸³ The 'self-made man', in particular, signified the incongruence between reality and myth. Usually proud of his (sic) democratic manners and his ability to get on with his workers, he was better known for his conservative politics. Whatever his attitude to social status, the self-made man was usually very conscious of his class position.

²⁸¹ Davison, Graeme; David Dunstan and Chris McConville (eds) (1985) *The Outcasts of Melbourne*, Allen and Unwin, Sydney. Behind the glittering image of the city of Melbourne (a supposedly new and vibrant metropolis) there existed in the popular imagination another, very different, picture. This was the poverty, the crowded slums, the disease-ridden 'low life', the vice and the generally disadvantaged. The nine essays contained in this volume reveal the social realities of the most vulnerable in colonial society, the poor. Many working-class families and individuals trod a fine line between a reasonable life and abject poverty.

²⁸² Rickard, John (1976) *Class and Politics*, p 308.

²⁸³ Connell, R and T Irving (1992) *Class Structure in Australian History*, pp 113; 145. See also, Rickard, John (1976) *Class and Politics*, pp 308-9. Egalitarianism was a 'long time in the making' in the Australian context. Egalitarianism began with the idealisation of the bush ethos, one that stressed among other things, resourcefulness, contempt for authority and a sardonic and laconic sense of humour. Such things were vividly portrayed in the literature, art and other documentations of the 1890s. It was subsequently grafted onto the urban dweller when the media realised Australia was the most urban nation in the world. More importantly, egalitarianism encouraged bourgeois aspirations at all levels of society, creating a strategy of legislative collaboration between employers, employees and the state.

Although he may have been on friendly terms with the workers at his office, the club, or at a political meeting, it is doubtful that the self-made man would have wished to meet them in his drawing room or have them marry his daughters. It is precisely this sort of truth which, it has been suggested, might apply to the personal relationships between liberal and labour politicians during the 1890s.²⁸⁴ It cannot be emphasised enough that the tradition of egalitarianism has been of enormous historical importance in Australia.²⁸⁵

The myth of egalitarianism was also a convenient one for labour and anti-labour politicians during the 1890s. Radicals, both in and out of the Labor Party, could place the reforms they advocated in an historical tradition; while conservatives could oppose such reforms as unnecessary in a society that was, from their viewpoint, already demonstrably egalitarian. As a ritual, egalitarianism tended to shape the form of political solutions, and in this respect the relatively sudden and widespread adoption of industrial arbitration achieves a new significance. In the 1890s Jack was supposedly as good as his master, and through arbitration the state reassured Jack that he was. (Arbitration formally disposed of the master-servant relationship, something that was always a contentious point among trade unionists.) Whether egalitarianism stimulated or diluted class hostility also remains a matter of debate. What it certainly did was to dictate the forms in which the feelings of class were expressed.²⁸⁶

It is often assumed that class-consciousness means some awareness of an identity of interest, on the parts of members of a class, one that is reflected in political action. But

²⁸⁴ Rickard, John (1976) *Class and Politics*, pp 308-9. For example, whether a social-liberal like Alfred Deakin would have willingly given his daughter's hand in marriage to a working-class man is questionable. Whether he would have welcomed labour leader John Watson into his home for dinner, or for some other social function, is equally problematic. It is very doubtful that either would have taken place. These are examples of the divisions that existed between working and middle-class men at the time. It is also interesting to note that Deakin's three daughters married highly influential men. Two were knighted for their work.

²⁸⁵ *Ibid*, p 290. Rickard argues that the Australian tradition of egalitarianism has been used as a mechanism with which to blunt the effects of class in Australian society. As he notes, 'for it is plain (to analysts and theorists who dismiss class in the Australian context) that much of the feeling that here there are practically no divisions of classes derives from a belief in the strength of social egalitarianism in Australian society. See also, Peter Botsman (2000) *The Great Constitutional Swindle*, p 68. Botsman notes the importance Australian political leaders have placed on the concept of egalitarianism, when he quotes Paul Keating (federal leader of the Australian Labor Party in the 1980s) espousing that the fair go and egalitarianism were the key bases of what it was to be an Australian.

²⁸⁶ *Ibid*, p 309.

clearly such consciousness is very much a matter of degree. It may range from a desire for a revolution to a merely protective gathering together of like-minded individuals. A distinction can be drawn between class awareness and class-consciousness, meaning the simple awareness of one's position in a class structure, as opposed to a consciousness of common interest. Beyond this, as John Rickard explains, there is the concept of what has been described as class unconsciousness – class-induced behaviour of which the individual is not aware. Such distinctions are very relevant to any analysis of class in Australia.²⁸⁷

Although it is difficult to sum up the peculiar flavour of class in Australia, there is much evidence that during the 1890s working-class people came to see themselves as belonging to the working class, in a way that implied acceptance of their position as being relatively permanent. After the first flushes of revolutionary rhetoric, the development of any political consciousness was very much confined to improving the lot of workers in a way that guaranteed that they remained workers in a capitalist society. In this sense the labour movement was never wedded to a program of radical change based on a Marxist revolutionary ideology. Labour's leaders may have interpreted this as facing political reality but it was just as much an evaluation or assessment of working-class attitudes in Australia. In short, the workers wanted their lot improved, but they had no desire to escape from the clutches of liberal-capitalism altogether. The Labor Party was there as a political insurance policy, not one behind radical political, social and economic change.²⁸⁸

Given that Australia was an industrial-capitalist society, the two traditions of working class and middle class are not terms for some imaginary social construct, rather they are clear and concrete entities. It is not difficult to believe that members of both 'classes' possessed an awareness and consciousness of themselves as belonging to a

²⁸⁷ Ibid, pp 309-10.

²⁸⁸ Ibid, p 310.

class. This consciousness was further reinforced by an interventionist state, one that had actively involved itself in both the private and public spheres of colonial life since 1788. Imagining Australian colonial societies other than class-based ones is difficult, considering the traditions they were founded upon and had clung to during their formative years. By 1901 the structure of Australian society had solidified, and in the process consciousness of one's location in the class system had become a comfort not a scourge.²⁸⁹

Because Australians today share a common language, a stable political system, a relatively fair and just legal system and a social system largely free of violence and crime, class conflicts and class-consciousness are often seen as relics of a distant past. By 1910 a reasonably distinct Australian society had emerged in which class patterns, previously blurred by the shifts and movements of rapid social change, had become clearer. It is ironic that by 1910 the development of class in Australia, far from being a signal for change, ensured that things stayed very much as they were. In place of several fragmented and quarrelling colonial governments, a federal system of government had emerged, endowed with a rigid two-party system, operating with the polar-opposite entities of labour and anti-labour.²⁹⁰

3.3 Class and Society

In the economic sphere the middle classes controlled the means of production, distribution and exchange. They not only possessed the means to finance industry and other economic activity, but also possessed the power to coerce workers into accepting wages and working conditions on their terms. It was not until the 1860-70 period that unions began to challenge employers for improvements in wages and working conditions. The unions had a number of victories on the industrial front up to 1890, after which the tightening of economic conditions forced employer groups (in

²⁸⁹ Ibid, p 310.

²⁹⁰ Ibid, p 310.

conjunction with the state) to reassert their position. The ensuing struggles between labour and capital often increased privation and destitution for many working-class individuals and families. In many ways the industrial conflicts of the 1890s were fought over economic issues; what is certain is that economic issues acted as catalysts for the development of class-consciousness among working and middle-class individuals and groups.

Crucial also in the development of class-consciousness during the 1890s was the decimation of the union movement after a series of confrontations between workers and the combined forces of capital and the state. Following the cessation of industrial conflict, the state was positioned to determine how working-class people were 'expected' to behave. Colonial police forces, militia and volunteers who acted as strike breakers (often sons of middle-class families) all guaranteed that working-class challenges to the liberal-capitalist system were broken before they had a chance to establish a firm base. Likewise, the introduction of cheap, compulsory elementary education established during the 1870s ensured that working-class children were taught how to 'correctly' function and behave within society. Such things were clear signs of the quickening process of class formation.²⁹¹

As Connell and Irving note, the development of secondary education coincided with a rise in the birthrate after 1865. By 1875, child labour in factories and loitering on the streets had crystallised as major social issues for middle-class reformers. Both issues presented problems of social control more acutely than at any time since the 1850s. Accordingly, there was a close connection between the Factory Acts that prohibited

²⁹¹ Connell, R and T Irving (1992) *Class Structure in Australian History*, pp 139-46. See these pages for an analysis of how the bourgeois stamped their authority over all sections of colonial society. Health, family, welfare, education, sanitation, housing and home ownership and thrift, were all coopted by the middle class. An ideological package was devised appropriate to the task of integrating a social order, back into 'mainstream' society, that had been threatened by industrial and political militancy in the 1890s. See also; Macintyre, Stuart (1991) *A Colonial Liberalism: The Lost World of Three Victorian Visionaries*, Oxford University Press, Melbourne, pp 152-3. Reformers like Charles Pearson in Victoria believed in the reformatory power of education: 'an educated community is on the whole more moral, more law-abiding, and more capable of work than an uneducated one. What I wish to point out is that democratic institutions such as our own make compulsory education a necessity'.

child labour and the establishment of compulsory elementary education. Working-class youths, previously only intermittently exposed to training in bourgeois values, were drawn out of the factories and alleys and subjected to the discipline of school.²⁹² Ideas on working-class schooling were, however, very different from those on schooling for middle-class children.

Education was vocationally based for working-class youth. Boys learnt skills suitable for the trades or other manual work. Girls were guided toward domestic science and associated competencies that would be useful for their role as married women in the family home. The idea of training workingmen for political participation was translated into rote learning and physical drill, methods that imagined citizenship for the working class as a form of vocational serfdom. After working-class youths left school at fourteen and entered the mines, factories and other manual industries, they were in fact little better than serfs, performing unskilled and often dirty work that was poorly regulated by the state and managed in an authoritarian manner by employers. Not surprisingly within a few years the police were complaining that juvenile crime rates were increasing, that offenders were becoming more literate, and that the factory system was clearly to blame for the breakdown of the social system.²⁹³

Middle-class educators also blamed the factory system for an alleged breakdown of social responsibility and embarked on an unrealistic campaign to provide educational solutions for problems arising out of the exploitative relationship of production. Raising the school leaving age and developing a special, and to some extent separate, system of technical education for working-class youth were believed by middle-class 'experts'

²⁹² Ibid, p 143. The meliorist strategy of reformist governments was not designed to demobilise the working-class but to integrate it into mainstream (middle-class) society.

²⁹³ Rickard, John (1976) *Class and Politics*, p 295. Rickard believes that the main interest in educational reform during the latter decades of the nineteenth century centred on technical education. In particular, working-class children were being trained for working-class occupations. Consequently, for the great majority of Australians, an avenue to the professions was closed, as were avenues to social mobility. See also, Connell, R and T Irving (1992) *Class Structure in Australian History*, p 145.

to be the panacea for their problems.²⁹⁴ Seemingly, they did not believe in the power of class as a social dynamic, one that could shape the consciousness of humans, particularly when they were confronted with inequitable and unfair societal structures that they believed clearly favoured the wealthy. Had middle-class social reformers realised that all Australians resided within a bourgeois social system that was constructed on a class-based and hierarchical social system, they may have discovered some remedies for their problems.

Conversely, many middle-class youths received an education suited to their social location. Often status-oriented, many attended the burgeoning private school system (church-based and in keeping with British traditions), receiving an education steeped in the classics, literature, (British) history, languages and political economy. Through the patronage of a father, uncle or close family friend, many middle-class youths (mainly men) entered the civil service, the family business or other occupations reflecting their social status. Constitution-makers like Deakin, Barton, Kingston, Isaacs and H B Higgins were products of this very system. Being advanced liberals, they (and others like them) also favoured a similar educational grounding for middle-class girls and young women.²⁹⁵ Although many in the middle-classes believed that education could be beneficial for working-class children, their ideas with respect to this education were clearly biased toward class-based outcomes.²⁹⁶

Along with education, the location and condition of housing, and home ownership were also broad determinants of the class structure. Australia was a highly urbanised society by the 1890s. Major cities had developed along the coastline. Rural towns and

²⁹⁴ Connell, R and T. Irving (1992) *Class Structure in Australian History*, pp 144-5.

²⁹⁵ La Nauze, John (1965) *Alfred Deakin: A Biography*, Vol 1, Melbourne University Press, Melbourne, p 51. Deakin was adamant that his three daughters were to be taught by his sister Catherine, mainly because of his insistence that they receive a meaningful education. See also, John Rickard (1984) *H B Higgins: The Rebel as Judge*, George Allen and Unwin, Sydney, pp 72-8. These pages give an account of Higgins' ideas on the advancement of women in Australian society.

²⁹⁶ Connell, R and T Irving (1992) *Class Structure in Australian History*, p 143. The introduction of cheap, compulsory elementary education in the 1880s was a sure sign of the quickening process of class formation. An amelioration of class conflict was believed, by middle-class liberals, to lie in educating the youth (particularly working-class youth) in vocational skills and basic knowledge and understanding of what citizenship entailed.

communities had formed around mines and other industries. Working-class suburban communities at this time were generally closely knit, supported by cooperative stores, friendly societies and other voluntary organisations. Each provided sustenance and care when families and individuals fell on hard times. The intimacy of work and life can be seen to have bred a sense of place that normally overshadowed the workers' sense of exploitation by the forces of capital. As many of these suburban communities nestled within bourgeois cities and towns, the functions of this urbanised way of life encouraged not only cultural and social independence, but also feelings of class-consciousness and an awareness of a real and present class structure.²⁹⁷

The latter decades of the nineteenth century also witnessed a departure of the middle classes from inner-city housing to housing in the suburbs, leaving the inner city to the working classes. Some working-class communities developed in the declining genteel suburbs of Fitzroy (Melbourne), Balmain (Sydney) or Norword (Adelaide). In 1910 Balmain had the second largest friendly society dispensary, one of the top ten building societies in Sydney, and the third largest cooperative society in New South Wales. Although home ownership was limited in the cities - approximately 30 to 40 percent of homes were owner-occupied in Melbourne and Sydney between the 1880s and 1914 – it was a more prominent feature of working-class communities in suburbs of this sort and the new subdivisions on the periphery of the city.²⁹⁸

On the other hand, in Redfern (Sydney) the Scottish and Australian Land Company, and other absentee landlords, owned large swathes of working-class terrace housing. In working-class suburbs like Collingwood (Melbourne) or Port Adelaide, business and governments laid down the contours for development, blighting many working-class communities from the start. The instigation of regular health checks, for example, was resisted by businessmen with rental properties in working-class localities, unless these

²⁹⁷ Ibid, p 127.

²⁹⁸ Ibid, p 128.

properties were deemed to be profitable. This often led to dire consequences for working-class inhabitants. As Connell and Irving note, in 1889 the Port Adelaide Health Officer reported that disease and death arose from overcrowding in dwellings and lodging-houses and from insufficient ventilation, and that household hygiene was extremely unsatisfactory in various parts of the municipality.²⁹⁹

Bedrooms were ill ventilated, floors were frequently damp, uneven and accumulators of filth, germs and disease. Not surprisingly, serious epidemics occurred in the most congested and depressed working-class areas, as state enforcement of health regulations was slow in attacking the sources of disease and contagion.³⁰⁰ When the plague hit Australia annually for six years from 1900, working-class suburbs provided its victims; amongst the 303 victims in Sydney in 1900, 247 were specified as workers. Conversely, the new middle-class suburbs created for upwardly mobile middle-class families were equipped with modern facilities, were well serviced and regularly maintained. Health issues associated with overcrowding, disease and squalor were not middle-class concerns.³⁰¹ Not surprisingly in this context, many working-class youth were quick to associate the inequities and injustices with the capitalist system.

In the depressed, inner-city suburbs of Sydney, a distinctive working-class youth culture had emerged in the larrikin push. It frightened the bourgeoisie through the total indifference to the sanctity of private property it promoted, but was channeled into serious crime largely as a consequence of police harassment. It is open to question whether the larrikins diverted working-class energy away from a frontal attack on property and class relationships into clashes with police and soldiers. It is little wonder that the most perceptive middle-class commentators counseled tolerance and

²⁹⁹ Ibid, p 128.

³⁰⁰ Ibid, p 128. See also, Dunstan, David (1985) 'Dirt and disease', in, Graeme Davison, David Dunstan and Chris McConville (eds) *The Outcasts of Melbourne*, p 141. In his study of Melbourne in the 1880s, Dunstan acknowledges that the authorities in Melbourne were tardy in their responses to sanitary and other health-related problems. This was not because of apathy, however. Rather, lack of a clear purpose by the authorities on how to tackle the problems created greater problems than those they were trying to eliminate.

³⁰¹ Ibid, pp 128-30. See also Bruce Scates (1997) *A New Australia*, pp 17-18, for an account of working-class living and working conditions.

advocated trade unions and dance halls to turn the members of the push into respectable citizens.³⁰² In many respects, colonial cities and towns had become segregated along class-based lines.

As already noted by Connell and Irving, from the 1870s, Australia's middle class had begun to vacate the town for the suburb. Similarly, Bruce Scates discusses the social segregation of the city in his account of late-nineteenth century working-class radicals. To Scates, the geography of nineteenth-century working class radicalism could be seen in the streets the working-class occupied. In a large city like Melbourne, single taxers, trade unionists associated with the Socialist League and anarchists like J A Andrews often lived within minutes of each other. As Australia's middle class vacated the town for the suburb, many of the suburbs became known for their diversity, their variety of aspect. Here the shabby genteel lived beside the upwardly mobile tradesman. Streets and landmarks divided wealthy from the poor, respectable from unrespectable. In suburbs like these we find the nursery of radicalism set amidst the contradiction of poverty amidst relative affluence.³⁰³ In this context, it is plausible to argue that by the 1890s Australian colonial societies had become polarised along clearly delineated class-based lines.

There was a broad decline in housing availability and affordability during the 1890s, a deterioration in conditions of health, and a decline in wage levels and working conditions, across the working class generally. That many working-class families and individuals lacked the resources to improve their lot in life is undeniable. The loss of social mobility for the majority of working-class people was an undeniable outcome of the industrial confrontations of the period.³⁰⁴ It is disingenuous to claim that this would not have led to a strengthening of class consciousness within and between members of

³⁰² Ibid, p 129.

³⁰³ Bruce Scates (1997) *A New Australia*, pp 17-18.

³⁰⁴ Buckley, Ted and Ken Wheelwright (1988) *No Paradise For Workers*, pp 60-1.

the middle and working classes, or that both had formed relatively clear ideas on their location in the social structure.

Although, at best, this section has been a brief overview of some of the social and economic issues that were prevalent in colonial societies during the 1890s, it does indicate that clear and identifiable classes had developed at the time. By the 1890s the colonial bourgeoisie had co-opted working-class radicalism and installed middle-class, liberal-democratic theories and practices into mainstream society, thus giving order a social dimension by making order a goal of both democracy and citizenship.

Democratic citizenship was used as a tool with which to legitimise the actions of the main agencies of social control – church, school, family, welfare agencies, the legal system and other institutions of the state.³⁰⁵

What is more, the hegemony of middle-class power and authority had guaranteed that there was little or no chance of the working classes, or organised labour, taking control of industry by taking control of the state.³⁰⁶ The combination of employers and the state ensured that the working classes would be kept in check despite the rapid growth in working-class political awareness, witnessed in the early successes of labour parties, beginning in New South Wales in 1891. The rise of labour politically not only reinforced class awareness among working-class people, and as a consequence among the middle classes, but also served to further polarise colonial societies along class lines.

3.4 Politics and Class

The advent of broad-based industrial and mining unions during the 1880s saw union leaders contemplating the idea of direct parliamentary representation for working-class

³⁰⁵ Connell, R and T Irving (1992) *Class Structure in Australian History*, p 144.

³⁰⁶ *Ibid*, p 18. A central difficulty is the contradiction between political democracy, essential to the legitimation of the state, and the autocracy of capital in industry. The contradiction persistently opens the possibility that workers will translate their numbers into electoral power and take control of industry through the state. This has been the strategic threat that has most concerned capitalists since the 1890s.

citizens. Payment of parliamentary members was one of the means by which they could bring this to fruition. First introduced in Victoria in 1871 as part of the radical tradition of Chartism, payment of parliamentarians was not introduced to assist the formation of labour parties. It did enable such things to emanate, however³⁰⁷. One of the greatest catalysts for the formation of colonial labour parties, however, was the Maritime Strike of 1890 in which the forces of capital, in association with the state, convincingly defeated and then humiliated the bourgeoning union movement. The industrial turmoil of 1890-94 certainly galvanised labour politically, particularly as influential sections of the Trades and Labour Council (TLC) in New South Wales, and the Progressive Political League (PPL) in Victoria lost faith in the ability of middle-class liberals to find solutions to the social ills confronting working-class people.³⁰⁸

Beginning in 1891 candidates claiming a working-class allegiance stood for parliament in New South Wales, Victoria, South Australia and Queensland. Labour candidates had already met with success in New Zealand during their elections of 1891, giving greater confidence to their Australian counterparts. With their new found confidence, Labour candidates (with the backing of the TLC) won thirty five seats in the New South Wales elections of 1891. Although less successful, Labour (or PPL candidates) won eleven seats in the 1892 Victorian election. During the same period labour won seats in the parliaments of South Australian and Queensland.³⁰⁹ To William Lane, the last election in New South Wales had caught the capitalistic lion asleep and the parasitic politician not yet full awakened. However, with the various electoral indicators before it,

³⁰⁷ Rickard, John (1976) *Class and Politics*, p 38. With the advent of payment of members of parliament, the possibility arose for working-class citizens to represent their working-class peers. Although this did not lead directly to the formation of labour parties as such, it did present the opportunity for this to occur.

³⁰⁸ Gollan, Robin (1966) *Radical and Working Class Politics*, p 109. The union defeats between 1890 and 1894 and the severity of an economic depression during this period, were catalysts for the bitter class struggles that produced a qualitative change in the Australian labour movement. Out of these events emerged the beginnings of the Australian Labor Party.

³⁰⁹ Rickard, John (1976) *Class and Politics*, pp 40-5. See these pages for an overview of labour party successes in New Zealand and across the Eastern colonies. Few were prepared for the success of labour parties; not even a wily and experienced politician like Henry Parkes.

the 'capitalistic lion' could not have failed to notice the challenge the working-classes were issuing to the existing political order.³¹⁰

Despite Labour's successes dissension was rife within the union movement. Many of the older craft unions were opposed to the challenges issued by the centrally organised new union bodies, particularly the shearers, labourers, transport workers and mining unions. This was evident in Victoria where many of the craft unions remained faithful to middle-class liberals, placing trust in them to maintain a fair, just and equitable society. It would be an understatement to claim that the liberal tradition in Victorian politics did not have an enormous influence on colonial politics. As John Rickard notes, there can be no doubt that protection, both as a fiscal policy and a social philosophy, was of enormous importance in nineteenth century Victoria. Protection was not only the preferred policy; it was the condition of growth. To it was ascribed the economic development of the colony up to 1890.³¹¹

The policy of protection was 'liberal' in the Victorian context, as it had been installed and maintained through an alliance of manufacturers and trade unions at the expense of the older established interests of the squatters and merchants. Unquestionably, labour parties and union organisations across the colonies did find difficulty parting company with their liberal counterparts. Many from both sides of politics viewed the economic policy of protection in Victoria as being integral to the survival of industry and effective fiscal policy, and believed that an alliance between workers and manufacturers was in everyone's best interests. Many labour men, including William Trenwith (union leader and future Constitution-maker) looked favourably upon a reorganisation of a united Victorian liberal party which included labour elements.³¹²

³¹⁰ Ibid, p 41. William Lane was a socialist newspaper owner who backed the cause of the working classes. His ideas on society and social organisation were at best utopian, as seen in his quest to build a 'New Australia' in Paraguay. He was however an influential polemicist on social, economic and political matters.

³¹¹ Ibid, p 44.

³¹² Ibid, p 35. In November of 1890, when opening a bazaar in Melbourne, Trenwith expressed his regret at having to vote against a government which included Alfred Deakin. Additionally, liberals like Charles Kingston, Sir Charles Lilley of Queensland, George Higginbotham (Chief Justice of Victoria) and Sir George Grey of New Zealand, were all looked

Matters in New South Wales were somewhat more fluid, as labour leaders saw their victory in 1891 as justification for a break with the forces of capital. Far more pragmatic than their Victorian counterparts, they were quite prepared to play a central role in bringing down governments if they did not support working-class legislation.³¹³ (It must be remembered that in 1890 there was no monolithic and centralised Australian Labor Party (ALP), only a disparate group of colonial labour parties that differed from each other often along ideological and philosophical lines.) Labour parties had met with encouraging successes in most colonies between 1890-92, however the strikes and their effects on colonial societies had created tensions both within and outside the labour movement.

Paradoxically, the early troubles of the Labor Party in New South Wales in particular, seemed to indicate the necessity of a liberal context to make sense of labour representation. In reviewing their problems, the TLC and PPL found difficulty in diagnosing their troubles. Complaints were heard that working-class people had not supported their own candidates, leading one union leader (J G Barrett) to comment that, 'if during the past twelve months [1890-91] the workers have not learnt a lesson I do not think they ever will'.³¹⁴ Surprisingly, in looking for solutions to the social and political ills that confronted working-class people in the early 1890s, few labour/union leaders looked upon class structure as a source or cause of these ills. Had they focused on what they were trying to achieve – political representation based on class – they may have recognised why setbacks to their cause were taking place.

upon as heroes of the union movement because each in his own way had thumbed his nose at the local Establishments. They were not of labour, but were honoured as patron saints. They were still liberals however.

³¹³ Scates, Bruce (1997) *A New Australia*, p 74. When George Black rose to make the first of many speeches in the New South Wales Parliament in July of 1891, he announced that the new political force he represented would stand independent of older parliamentary alliances. It would side neither with free trader or protectionist, but support a ministry that would advance labour's program of social reform. Warning to his task, Black said that 'we have not come into this House, then, to make or unmake ministries. We have not come into this House to support governments or oppositions. We have come into the House to make and unmake social conditions'.

³¹⁴ Rickard, John (1976) *Class and Politics*, p 46.

The idea that working-class men should represent working-class interests had introduced an explicit class issue into colonial politics. The logic was simple. If the Great Strikes had been a struggle between the forces of capital and labour (as was generally accepted) there seemed to be a gap between the number of members of parliament who could be identified with capital and the number who could be identified with labour. Although representatives of employer groups and other middle-class parliamentarians claimed that they were elected to represent all classes, these comments cut little ice with working-class people and union leaders in particular, in the atmosphere of the 1890s. Labour candidates believed that only those who labour can understand the true needs of labour. When trade union leaders spoke of those who labour, they clearly meant those who laboured with their hands.³¹⁵

Unfortunately, this spelt doom for middle-class radicals who saw in the labour movement a chance to reform colonial society. Such things served to reinforce the growing awareness that politics was rapidly becoming class-based. The entry of working-class men into colonial parliaments certainly gave the word 'labour' a new dimension. What had been a trade union movement, concerned with specific questions of wages, hours and working conditions, was quickly being converted into a vehicle for the political representation of working-class interests. It is difficult to deny that by the early 1890s politics had become a class-based activity in which labour parties represented working-class interests and liberal and conservative middle-class men represented their own set of interests.³¹⁶

Although it is debatable as to how representative labour parliamentarians were of the working-classes generally, it remains true that, with the advent of labour into politics in 1890 and with their successes in 1891-92 a massive shift in working-class voting

³¹⁵ Ibid, p 49.

³¹⁶ Ibid, p 251. Such things were summed up by Herbert Brookes (Alfred Deakin's son in law). 'The union of the Liberals into a political party created officially and permanently a gulf between the two parties and so rallied all labourers, wage earners, etc, to their class in the absence of better and more sane promises from Liberals'.

patterns had taken place. Despite the labour vote waxing and waning during the 1890s, the nucleus of the labour movement that had reformed after the industrial tumult of 1890-92, remained intact and grew with the arrival of the Australian Commonwealth in 1901.³¹⁷ With the arrival of labour successes at the ballot box, the forces of anti-labour began to take shape, witnessed in the rapid formation of employer organisations across most of the colonies. The National Association (New South Wales), the Progressive Political League (Victoria) and the Young Victorian Patriotic League, all formed in 1891, are indicators of this activity.³¹⁸ By 1891 colonial politics had clearly taken on class hues.

The formation of the National Association signalled that the forces of capital were not going to allow Labor a free rein. Supported by capitalists and employer groups, the membership of the National Association warned of the dangers of political labour. Included in its manifesto were the following objectives: the preservation of the national character of the legislature; the maintenance of law and order; the education of youth (warning them against the dangers of class and class-based social systems); freedom of contract; opposition to class-based legislation injurious to producing interests; the securing of due registration of voters and the systematic revision of rolls; and the promotion of peace, security and general confidence. Not surprisingly, the Victorian Employers Union approved of the aims and objects of the National Association, recommending that its members should join without delay. Surprisingly, the founders of the National Association claimed to be neutral on political matters.³¹⁹

Launched within a month of the Progressive Political League, and at the same time as the Young Victorian Patriotic League, the National Association tapped into a rich vein

³¹⁷ Gollan, Robin (1966) *Radical and Working Class Politics*. pp 132-3. See Gollan's estimates of union membership across Eastern Australia between 1880-1900, along with probable voting patterns across the working-classes generally.

³¹⁸ Rickard, John (1976) *Class and Politics*, pp 52-63. See these pages for a broad overview of the aims and objectives of these associations and their relationships with the forces of capital. Many of these organisations and associations were highly influential, whether directly or indirectly, in the political arena.

³¹⁹ *Ibid*, p 60. Part of their claim as a 'national' association was that they were non-political. For example, the New South Wales Association claimed that it did not allow parliamentarians to take part in its affairs.

of concern over social and political issues. Class was at the forefront of these. One of the founders of the 'League' described it as 'a movement for the young business men of the community'.³²⁰ Although these three associations were described as being 'national' in character and opposed to 'class' legislation, some of their early leaders were surprisingly candid about the nature of their organisations. W H Calder linked the political situation with the industrial situation out of which it (the National Association) had emerged, commenting that: 'It was no longer simply a struggle between employer and employees, but a strife between class and class'.³²¹

At another meeting, G A Maxwell agreed with an interjector 'that the National Association was run by capitalists, but thought that it should be judged on its merits'.³²² Although these middle-class organisations did not attract an overwhelming number of followers, they were highly influential in the political sphere. All arose as a consequence of the political successes of labour, beginning in New South Wales in 1891. All were highly sensitive to what they believed were the dangers of socialism and other class-based legislation. It is not uncommon to find commentaries in newspapers during the harsh, recessionary years of the mid-1890s, that dismiss 'one man, one vote', or in which it was claimed that 'the country cannot tolerate interminable debates on an abstract question [democracy] in a period of depression'.³²³

Although these middle-class, anti-labour associations may not have garnered the support they desired from their class-based constituents, if nothing else they were highly influential as lobby groups, actively promoting the election of anti-labor governments.³²⁴ Nevertheless, time and again during the 1890s the bodies that most effectively guarded employer interests were the colonial Legislative Councils. In these

³²⁰ Ibid, pp 54 and 59-61. George Meudell was a young middle-class man and advocate of the liberal-capitalist society that had grown in the colonies.

³²¹ Ibid, p 56.

³²² Ibid, p 56.

³²³ Ibid, p 58. These comments appeared in the influential Victorian *Age* newspaper on 22 April 1892.

³²⁴ Ibid, p 60. These associations often nullified their own attempts at gaining democratic support by their marked suspicion of, and in some cases opposition to, the democratic process. Even though small by membership, their influence as the precursors of a wider challenge to political labour cannot be underestimated.

bodies capital not only had a veto over all legislation but required little organising. They rarely spoke the language of democracy and often derived from a very restricted electorate. The Legislative Council in New South Wales, being an appointed body, had no electorate at all.³²⁵ The declining economic situation in the early-1890s further highlighted the restrictive and undemocratic nature of these Councils. Comprising employers, pastoralists, members of exclusive city clubs and men of wealth and privilege, these middle-class bodies ensured that the middle class's hard earned position in colonial society, and their substantial assets, were not going to be threatened by the working classes.

It is difficult to overestimate the influence and power of the Legislative Councils. They were opposed to reforms across the board, often determining the type of legislation governments of the day could submit to colonial parliaments. They often opposed legislation of a democratic or liberal nature. As New South Wales Legislative Councillor Dr R Bowker stated, 'It is idle to say that we are governed by the people. We have a mixed government – a government of King, Lord and commons'.³²⁶ In this case, the 'commons were not citizens from the working-class but those [men] from the middle-class'. Such comments are not an isolated example of one Legislative Councillor. It was not unusual for Councillors in all colonies to share similar sentiments. Collectively they were saying that democracy was only acceptable in so far as property and its rights were protected.³²⁷

Against this rhetoric, working-class leaders were demanding their democratic rights as human beings. Democracy, as a mass movement, was on the rise among a better educated working class, however frightening this may have been to many in the middle

³²⁵ Crisp, L F (1974) *Australian National Government*, p 99. The New South Wales Legislative Council remained an unelected body until 1934 when it was reconstituted into an elected one. See this page for an account of adult suffrages in the other state Legislative Councils.

³²⁶ Rickard, John (1976) *Class and Politics*, p 62.

³²⁷ Crisp, L F (1974) *Australian National Government*, pp 18-19. See these pages for Crisp's interpretation of the Convention debates (1897-98) pertaining to the establishment of a Commonwealth Upper House of Parliament. Conservatives were concerned that the Commonwealth was to be too democratically based. In particular, popular direct election of the Upper House was a major concern for them.

classes. Even during the darkest hours of the industrial conflict of the 1890s the striking workers were exercising their democratic right to be heard. In doing so they were demanding their basic human rights. The working-class desire for a greater political voice and a more direct involvement in the political milieu was a potent catalyst for the development of class consciousness in the Australian colonies.³²⁸ That working-class voters would support a political party that represented their interests is easily understood.

Although the ALP has been accused by some of being a bourgeois political party³²⁹, it was always going to be difficult for it to be otherwise. By the 1890s colonial political parties were functioning within a liberal-capitalist system that protected ownership of private property and lauded the pursuit of, and acquisition of, material possessions. As Paul Reynolds notes:

*All [political] parties competing in the [political milieu] advocated loyalty to the Crown as the symbol of government above party politics, all are committed to the parliamentary style of government (albeit the early ALP wanted to abolish the Senate and federal system) and all are committed to a mixed economy of public and private enterprise, each advocating a different admixture of the two. All parties believe democracy to be the appropriate form of government for Australia, and that democracy is superior to any other model of government. All abide by the Australian constitution which enshrines the defence of private property, including free trade between the States. In short, no political party which is a serious contender for political power in Australia advocates revolution, defined as the replacement of the democratic system with any other, the sequestration of private property and the nationalisation of the private sector.*³³⁰

The parameters of political debate have always been set within the agenda of democratic practice and private property. The political forces of the superstructure represent democracy as the only form of government appropriate to the society. This

³²⁸ Scates, Bruce (1997) *A New Australia: Citizenship, Radicalism and the First Republic*, Chapter 5. In this chapter, entitled 'Poverty and Protest', Scates indicates that the poor, the unemployed, working-class men and women, were all exercising their democratic right by protesting against what they believed were enormous levels of inequality and injustice within colonial societies.

³²⁹ Burgmann, Verity (1985) *In Our Time: Socialism and the Rise of Labor 1885-1905*, George Allen and Unwin, Sydney, p 197. Labour men who found their way into colonial parliaments soon found the privileges and status most attractive. They rubbed shoulders with representatives from the other side of politics, and discovered they were not such bad chaps after all. It was under these circumstances, and in these surroundings, that much of the 'labour inspired' revolutionary rhetoric and ideology died. See also, Clark, Manning (1999) *A History of Australia*, Volume V, pp 61-2. Scates, Bruce (1997) *A New Australia: Citizenship, Radicalism and the First Republic*, pp 101-3.

³³⁰ Reynolds, Paul L (1991) *Political Sociology: An Australian Perspective*, Longman Cheshire Pty Ltd, Melbourne, p 127.

form of government is congruent with the requirements of the ruling class as democracy serves to guarantee the political domination of the economic system by the ruling class.³³¹

Despite this, it is important, however, to view both labour and anti-labour in relation to the other. The working class and middle class were the antithetical, yet necessary, aspects in the maintenance of a liberal-capitalist society, which Australia had become by the 1890s.³³² With its beginnings in the union movement, labour had evolved as a voice for a largely disenfranchised working class. Conversely, anti-labour had sought to reinforce its hegemony, when employer groups, merchants, financiers and businessmen organised in opposition to working-class aspirations during the early-1890s. Labor and capital were the political expressions of a class-based social system. Inherent in the political idea of labour was its opposite, anti-labour.³³³

If the forces of labour had not emerged, politically and socially, with a clear consciousness of their class-based position in society, then the middle-class institutions of power and authority would not have been pressured into uniting to oppose them (as had happened during the industrial confrontations of the 1890s). With the industrial skirmishes of the 1890s acknowledged at the time (and in later accounts) as struggles between labour and capital, the class-based nature of these seminal events is further emphasised.³³⁴ The associated industrial confrontations of the late-1890s brought the spectre of social revolution to many in the middle classes. The view

³³¹ Ibid, p 128.

³³² Buckley, Ted and Ken Wheelwright (1988) *No Paradise For Workers*, pp 32-3. Capitalism presupposes the existence of a proletariat. For capitalist accumulation to work, two different kinds of people must be brought together, in the market and in the production process. There must be on the one hand, the owners of money, means of production and means of subsistence (the middle class). On the other hand, free labourers, the sellers of their own labour-power, and therefore the sellers of labour (the working class).

³³³ Markey, Ray (1988) *The Making of the Labor Party in New South Wales 1880-1900*, p 1. As Markey notes, by 1900 the Labor Party had become a central entity in the politics of the new Australian Commonwealth. Through the Labor Party, the working class was tied to the political programme enacted by the Commonwealth in the early-1900s. This programme, and the Labor Party's role in its development, therefore, indicated the incorporation of the working class into the new Commonwealth. This incorporation took the political form of a national settlement between the working-class and the middle class.

³³⁴ Rickard, John (1976) *Class and Politics*, p 8. As Rickard notes, the New South Wales Royal Commission on Strikes, appointed in the wake of the unions' defeat, was itself formed 'to investigate and report upon the causes of conflicts between Capital and Labour'.

that they were living during a revolutionary period, in which working-class forces sought to overturn the existing social order, was a reality for many in the middle classes at the time. They were not alone in this, though.

During the nineteenth century Britain and many European nations had experienced revolutionary impulses, often brought about by working-class agitation for fairer, more just and equitable societies in which working-class voices were heard and in which working-class people could actively participate.³³⁵ In Australia during the 1890s the middle-class institutions of power and authority were also being directly challenged by the working class. These were robustly and, at times, brutally put down by the combined powers of capital and the auspices of the State. It can be argued that these clashes over principles and systems of belief about how society should function further divided colonial societies, ones that were already polarised along class-based lines.

3.5 Conclusion

Whether viewed from the political, social or economic perspective, by the 1890s the Australian colonies reflected the effects of class, particularly when the influences of British traditions and institutions are considered. It is difficult to imagine the colonists, during any period, using another paradigm with which to make sense of the world in which they found themselves. Believing that they would develop societies other than ones based on British traditions and institutions is disingenuous. To imagine that these colonial societies had freed themselves from class on their journeys toward federation in 1901 is fanciful.

³³⁵ Webb, R K (1975) *Modern England: From the Eighteenth Century to the Present*, George Allen and Unwin Ltd, London, pp 247-52. See these pages for Webb's account of the Chartist movement, a popular pressure group that fought against inequalities and injustices in British society during the 1840-50 period. See also J M Roberts (1996) *The Penguin History of Europe*, Penguin Books, London, pp 480-81. In a short section titled *The Spectre of Socialism*, Roberts maintains that socialist propaganda and rhetoric did more to frighten the possessing classes [the bourgeoisie] than any other line of thinking. The middle and upper classes in England, Spain, France, Germany and Italy all feared the rise of Marxist thinking and the threat of associated revolutionary actions. These, coupled with revolutionary rumblings in Russia, certainly set the scene for a revolutionary period in Europe during the latter decades of the nineteenth century.

The realities of the economic sphere were a constant reminder for the individual of their location in the social structure. Within a liberal-capitalist society as the colonies had become by the 1890s, the economic disparities were not difficult to disdain. Working-class people generally resided in the poorer suburbs, lived in lower standards of housing when compared with their middle-class counterparts. Working-class youth had fewer and differing educational opportunities than those of the middle classes, career opportunities and wage levels were invariably less for the working classes and the legal system was harsher on them also, particularly when attitudes toward employment, welfare, poverty and vagrancy were taken into consideration. The system of private property and ownership of material assets were not only considered worthy aspects of the social system but were also valiantly protected by the legal system. As the disparities within the economic system became more entrenched, the chances of social mobility became fewer for working-class citizens, further reinforcing class as a potent force within colonial societies.

With the approach of the 1890s, the rise of colonial labour parties and a confident union movement flexing its industrial muscle threw up major challenges to the middle class and their leadership. Working-class solidarity and a growing consciousness of their class-based position meant middle-class minds had to approach the working classes in a new and unfamiliar context. It is difficult to deny that class-consciousness and issues of class were to be keenly felt during a period in which the forces of labour began to challenge the supremacy of capital. With the advent of the Great Strikes, increasing conflict became the norm not the exception. These issues and their effect on constitution-making, will be examined in the next chapter.

Chapter 4 - Labour and Class Conflict

4.1 Introduction

While we may look further back, there can be no doubt that the events of the 1890s acted as a vitally important context for an understanding of constitution-making. Of those events Deakinites seem to have by-passed or overlooked, the industrial ferment of the time is, for me, the most important. For recognition of the significance of industrial ferment renders untenable their stories of progress from convict colonies between 1788 and the 1860s, through responsible government and democratic reform of the institutions of colonial government and governance between 1850 and 1890, to a decade of constitutional deliberation in the 1890s, culminating in the realisation of a liberal and democratic constitution accompanying federation in 1901. A conflict-free, popularly heroic, triumphal and class less account of events is advanced by Deakinites, while the industrial turmoil of the 1890s is either reduced to a historical footnote or ignored altogether.³³⁶

The Great Strikes of 1890-94 were defining moments in Australia's history.³³⁷ These climactic events were not isolated incidents, however; they were preceded by a serious outbreak of industrial disharmony during the 1880s. In 1890 employer groups began organising against a burgeoning union movement that had been gaining in strength since the 1860s. In 1861 miners in Victoria and New South Wales had organised into unions, agitating for reduced working hours, increased wages and improved working conditions. Benefiting from an upturn in economic activity between 1860 and 1890,

³³⁶ There is no mention of class in the indexes of the following books: John La Nauze (1972) *The Making of the Australian Constitution*; Quick, John and Robert Garran (1900) *The Annotated Constitution of the Australian Commonwealth*; Helen Irving (1997) *To Constitute a Nation*; John Chesterman and Brian Galligan (eds) (1999) *Defining Australian Citizenship*; John Hirst (2000) *The Sentimental Nation*; W K Hancock (1930) *Australia*.

³³⁷ Rickard, John (1976) *Class and Politics*, pp 7-8. To Rickard, it is difficult to deny these events some importance. The Maritime Strike (1890) was the culmination of a developing conflict, one that had been brewing for two decades. Despite a number of defeats for the union movement during the 1880s, it had gone from strength to strength. As with the unions, the fledgling labour movement was also brimming with confidence. 1890 spelt total defeat for unions and shattered the confidence of those in the labour movement. This devastation set the working-class cause back years. Furthermore, with no representation at the Conventions, there was no working-class voice in constitutional deliberations. It was not until the first decade of the twentieth century that labour regained a political foothold.

mining unions flourished across Eastern Australia.³³⁸ Like the miners, workers in other industries also began organising and agitating for improved pay, hours and working conditions.

Employers recognised the power of unions and organised to confront them. The coalescence of disparate employer organisations into a coherent and unified body to oppose the militancy of a burgeoning union movement attests to this.³³⁹ Labour's political success, initially in New South Wales in 1891, and later in Victoria, Queensland and South Australia³⁴⁰, reinforced the employers' sense of living under siege. Believing that they had conceded too much power to unions, employers set about regaining the initiative through industrial means. A showdown was looming as the 1880s gave way to 1890. The ports of Melbourne and Sydney were focal points for the industrial confrontation. Increasing conflict between unions and employers quickly became a struggle between the forces of capital and labour.³⁴¹

During the 1890s the forces of labour and capital tested each other's strength in what seemed to be a major battle of wills. While they are often described as clashes over 'freedom of contract' (i.e. the employers' right to hire and fire at will) or the union policy of the 'closed shop', the strikes involved more than these two issues.³⁴² Draconian and

³³⁸ Fitzpatrick, Brian (1944) *A Short History of the Australian Labor Movement*, pp 45-51. Throughout these pages, Fitzpatrick charts the successes of the fledgling union movement in the Eastern colonies between 1855 and 1890. From humble beginnings, by the early-1890s unions possessed the power to withdraw their labour from major mining sites and strike for improved wages, working conditions and hours. Mining unions and Broken Hill Proprietary Ltd (BHP) had also reached an agreement whereby BHP agreed to collect all the dues for the unions on pay day and hand some over to the duly appointed representative of the unions. Although this was revoked in 1892 as employers took back the industrial initiative, it does indicate unions were in a position of power prior to the economic downturn which began in 1892.

³³⁹ Rickard, John (1976) *Class and Politics*, p 26. Rickard notes that the movement towards employer unity did not proceed at a constant pace. However, the events of 1890 saw formation of employer 'mutual defence' associations in New South Wales and Victoria, with funds designed to assist members engaged in industrial disputes.

³⁴⁰ Gollan, Robin (1966) *Radical and Working Class Politics: A Study of Eastern Australia 1850-1910*, pp 128-51. Gollan claims that the Labor Party emanated from the shattering union defeats during the Maritime Strike. The strikes were so decisive because the issue at stake was the right of unions to act on behalf of the working class in all their relations with employers. With the loss of influence in the workplace, the working-class required political representation. Such things were realised when the Labor Party of New South Wales won twenty seven seats in the general election of 1891. Similar successes by labour in Victoria saw working-class representation in the political milieu of the two most influential Australian colonies.

³⁴¹ Rickard, John (1976) *Class and Politics*, p 8. The New South Wales Royal Commission on the Strikes (1890-94), appointed in the wake of the union defeat, was itself formed 'to investigate and report upon the causes of the conflicts between Capital and Labour'.

³⁴² *Ibid*, p 8. As Rickard notes, it has never been easy to ascertain reasons for the Maritime Strikes. In the last resort, historians produce two magical boxes labelled 'Freedom of Contract' and 'Recognition of Unions'.

repressive legislation was utilised by the state to quell industrial unrest and in gaoling striking unionists and their leaders. This was not only intolerable to unionists and the working classes but unfair and unjust, particularly when middle-class men spoke of faith in the rule of law, an equitable and fair society and a fair go for all.³⁴³ To the middle classes at the time, the economic, political and social bases of colonial society seemed to be at stake.

Fears of social revolution beset the Constitution-makers in the wake of revolutionary circumstances elsewhere around the world. Few could have been unaware of the troubles confronting Czarist Russia during the late nineteenth century, the Paris Commune of 1870 and its deleterious effects on liberal-capitalism in France and the damaging effects that the American Civil War of the 1860s had on the fabric of civil society in the United States of America (USA). The Constitution-makers would also have been aware that working-class pressure directly influenced successful passage of the Reform Acts and other social legislation through the British Parliament during the nineteenth century. The Eureka stockade of 1854 was also a sharp reminder to colonial governments of the power of the 'mob', particularly when imbued with ideas on freedom, liberty and democracy.³⁴⁴

Although the industrial clashes of the 1890s did not signal the beginning of that class war that might be expected from a Marxist model, the grim years between 1890-95 certainly had an effect on the development of class-based attitudes among

³⁴³ Markey, Ray (1988) *The Making of the Labor Party in New South Wales: 1880-1900*, pp 122-3. The Master and Servants Act was originally British legislation applied to the Australian colonies to enforce labour contracts. (The Act's very title carried the full implications of its class basis.) These Acts could be used against unionists by interpreting strikes as breaches of contract by desertion of duty, or as disobedience to an employer. In the 1890s many Queensland shearers felt the full force of these Acts. See also, Botsman, Peter (2000) *The Great Constitutional Swindle*, p 18. The treatment of striking unionists (shearers) was appalling; many were jailed for lengthy terms, often with hard labour, for striking against reductions in pay and working conditions.

³⁴⁴ Gollan, Robin (1966) *Radical and Working Class Politics*, pp 21-31. Throughout these pages, Gollan explores the events leading up to and including, the clashes at Eureka between miners (diggers) and colonial soldiers. The diggers wanted liberty, and what they meant by liberty was conditioned both by the radical political and social ideas of the country from which they came and by their experience in Australia. More importantly, the diggers wanted economic, social and political freedom. In short a democratic voice in the colonies.

Australians.³⁴⁵ With a heightened fear of revolution at the time, it can seem that the auspices of the state sought to control the private and public lives of working-class people. State repression for example, was a harsh reality, an ever-present threat to working-class people during the nineteenth century, particularly during times of social and industrial unrest. The welfare, education, legal and industrial systems (all agencies of middle-class hegemony) were often utilised during these periods to quell working-class aggression.³⁴⁶ Fundamentally, working-class people had little or no real power during the 1890s.

The more that the context in which the Constitution-makers' work is analysed the more it appears they believed that they were writing against a backdrop of social, political and industrial revolution. With little mention of working-class interests in the constitution, it can also appear that the Constitution-makers chose to protect middle-class interests, rather than establishing the constitutional and governmental machinery to bring about a fair, just and equitable nation for all Australians. Rarely acknowledged by Deakinites, class-based interests cannot be dismissed as having been a stimulus for the majority of the Constitution-makers. There is another side to the story of constitution-making and it needs to be told to bring balance to the historical account. It is, however, a class-based story set against a backdrop of industrial turmoil in which middle-class men devised a middle-class constitution to protect their power and authority, while ignoring the needs of the working-classes.

This chapter is divided into six sections. Each develops a picture of the characters, places and events that marked the period in which the constitution was developed. The initial section, *Precursors to the Great Strikes*, is an overview of the interaction between unions and employer groups that led to the industrial confrontations of the 1890s. The following sections, entitled *Mining Unions* and *The Extension of Trade*

³⁴⁵ Rickard, John (1976) *Class and Politics*, pp 1-3. See these pages for an analysis of the industrial clashes of the 1890s and their effects on the development of class-consciousness in colonial Australia.

³⁴⁶ Markey, Ray (1988) *The Making of the Labor Party in New South Wales: 1880-1900*, p 128.

Unions, describe some of the achievements gained through union agitation between 1860 and 1890. Of these, improvements in wages and working conditions and a reduction in the hours of work were the most important. *Increasing Conflict* covers the period 1885-90 when employers organised against a confident and burgeoning union movement. Set against a backdrop of economic recession, the industrial confrontations between unions and employers often became bitter and violent.

As 1890 unfolded, employer groups, supported (covertly) by the state, tested the strength of unions in a major clash of wills. The fifth section, entitled *Capital versus Labour*, presents an overview of the industrial disputes of the 1890-95 period. Confrontation of the magnitude and acrimony of these disputes had never taken place in Australia before, and has rarely been repeated since. Few could have been immune from these, including the Constitution-makers. The final section, *Constitution-makers and Industrial Turmoil*, explores the interplay between constitutional deliberations and the industrial climate of the 1890s. The fact that the Constitution-makers worked within a volatile industrial environment is beyond doubt. The direct intervention of (Constitution-makers) Barton, Griffith, Carruthers, McIlwraith, Dibbs, McMillan and Deakin in the strikes, attests to this.³⁴⁷ The 1890s were a period of tumultuous upheaval, a time of adjustment and change for all sections of colonial society. The Great Strikes were the defining event of the period and must take a central place in any complete account of the making of the Australian constitution.

³⁴⁷ Rickard, John (1976) *Class and Politics*, pp 22-3; Botsman, Peter (2000) *The Great Constitutional Swindle*, pp 15-16. Botsman describes Griffith as a complex character. During the 1880s Griffith was quite socially active, often siding with the workers in issues that were important for their well-being. However, during the 1890s Griffith 'changed sides', siding with employer groups to effectively crush the union challenge for a voice in Queensland colonial society.

4.2 *Precursors to the Great Strikes*

In a critical study of the politics of radicalism and work across Eastern Australia between 1850 and 1910, Robin Gollan follows the varying forms that had developed under the influences of the changing political and economic milieu and the force of new ideas that were being expressed from the middle of the nineteenth century to the eve of the First World War. The movements for democratic institutions, for the unlocking of the land, for the eight-hour day, for the 'recognition' of unionism, and for the formation of the Labor Party were different in the objectives sought. But there is a fundamental connection between them, in that they all expressed the continuing search for a prescription which would make life more tolerable for the majority of the people.³⁴⁸ It was from this combination of ideas and idealism that unions emerged in the 1850s, particularly amid working-class leaders.

The leadership exhibited by Charles Jardine Don (the first workingman to sit in the Victorian Parliament) and Benjamin Douglas (the first chairman of the Victorian Trades Hall Committee) gave working people hope that they could successfully establish unions in the colonies. According to Gollan, workers had, by and large, supported the radical cause. As unionists they had sought to achieve other, non-political, ends, but in the process found it increasingly necessary to employ political means. To some, like the Chairman of the Melbourne Trades Hall Committee (1859), Mr Eves, the time had arrived when workingmen had to look among their own for political direction and inspiration.

*The poor docile working-classes of England had been content to labour on and permit the upper classes to think and act for them. The reason why working-men had not hitherto occupied the position they should was because they did not know their best friends. Working-men must look for friends among themselves.*³⁴⁹

The stimulus to the formation of unions has varied in different countries at different times. Intolerable working conditions, starvation, or pitiful levels of remuneration have

³⁴⁸ Gollan, Robin (1966) *Radical and Working Class Politics*, p viii.

³⁴⁹ *Ibid*, p 69.

produced desperate combinations to resist the power of employers and advance the demands of workers. More generally, permanent organisations have arisen in conditions within which a shortage of labour or high profits have strengthened the bargaining position of employees or encouraged employers to make concessions to employees.³⁵⁰ Conditions in the burgeoning capitalist economy of colonial Australia from the 1860s onwards saw similar developments in employer–employee relations. Such things marked the beginnings of a struggle between capital and labour³⁵¹, with solutions to industrial problems arising only after the industrial confrontations of the 1890s.

With the discovery of gold in Victoria during 1855-56 many skilled workers sought their fortunes away from the urbanised working environments of Sydney, Melbourne, Brisbane and the like. Thus skilled workers were at a premium in major urban centres, particularly in the building industries, which were booming from the effects of the gold discoveries. The acute shortage of labour during the period probably doubled real wages in colonies like Victoria, although prices rose in line with wage increases. Compared to the working classes in England, workers in colonial Australia were thought to be well off, simply because their earnings enabled them to enjoy comforts beyond the reach of their compatriots in the Old World.³⁵²

Both demands for higher wages and resistance to wage reduction have an important place in the history of Australian unionism and employer-employee relations generally.

³⁵⁰ Ibid p 70.

³⁵¹ Rickard, John (1976) *Class and Politics*, p 8. See comments above on The New South Wales Royal Commission on the Strikes (1890-94). See also, Fitzpatrick, Brian (1944) *A Short History of the Australian Labor Movement*, p 11. Fitzpatrick takes the view that the history of the Australian people is amongst other things the history of a struggle between the organised rich and the organised poor, and that the usual aim of the belligerents has been to keep or win economic and political power in order to use it in what they considered to be their own interests. Connell, R and T Irving (1992) *Class Structure in Australian History*, p 38. Connell and Irving claim industrial development in Australia has always been a struggle between the forces of capital and those of the labour movement.

³⁵² Buckley, Ted and Ken Wheelwright (1988) *No Paradise For Workers*, p 10. Although Buckley and Wheelwright acknowledge that the common people in Australia were less downtrodden than were their counterparts in Britain and the United States of America, they believe that claims of a workers paradise in Australia are an exaggeration. Unemployment was incorrectly measured, much work was of a casual or seasonal nature, and although there were labour shortages in rural areas, each city had its 'reserve army of labour'. The extent of working-class home ownership was exaggerated, especially in the cities, where it was expensive – in rural areas housing was more affordable for the working class but was of inferior quality. Public health was neglected for the working classes; infant mortality was higher than in middle class families; an outbreak of bubonic plague as late as 1900 mainly affected working-class people.

Contiguous with struggles over remuneration levels, the improvement of the workers' lot was the product of a bitterly fought battle between the forces of capital and labour, clearly witnessed in confrontations over working conditions, wages and hours worked. However calls for a reduction of hours and improvements in working conditions had lengthy histories prior to unionist-employer skirmishes in Australia. Both were central planks in the social programs of Chartism and the practical humanitarianism of the men who pursued the Ten Hours Bill in the British Parliament.³⁵³ Such things were seen by middle-class 'improvers' to be crucial for the future welfare of the working class in terms of their moral and intellectual improvement.³⁵⁴

1870 marked the beginning of twenty years of prosperity, occasionally interrupted by economic downturn or industrial conflict. By the 1880s, unions associated with the skilled trades, mainly those involved in the building or iron trades, had consolidated their organisations. Although mining unions were slowly establishing their right to exist, the core of the union movement was still the craft unions which had first organised during the 1850-60s. The mining unions were the first to amalgamate in Bendigo during 1872, mainly to oppose the employment of cheap Chinese labourers and sub-standard working conditions and wages, but also to seek an eight-hour working day.

This marked the beginnings of a more 'federal' approach on the part of the union

³⁵³ Webb, R K (1975) *Modern England: From the Eighteenth Century to the Present*, p 248. In a prescient study, Webb notes that Chartism is one of the most complex and difficult subjects in English history. To speak, as most historians have done, of 'the Chartist movement' leads almost insensibly to finding a coherent way through a complicated set of circumstances, ideals and events that lead to the definable social and political goals of this organisation. Rather, Chartism was a name applied to many widely differing protests, to competing impulses toward a hundred hazy visions of a better world. See also, Briggs, Asa (1967) *The Age of Improvement 1783-1867*, Chapter 6. Briggs outlines the development of working-class consciousness during the 1830s, particularly with the advent of trade unions. The working class recognised their negation from the economic, social and political milieux in Britain and sought to develop a program of democratic inclusion within the nation. The Charter, a six point plan outlining working-class grievances, was devised and presented to working-class people and the British Parliament. However, like so many other radical movements, the Chartists lurched between moderation and anarchy, leading to divisions within the movement, which finally led to its destruction.

³⁵⁴ Rickard, John (1976) *Class and Politics*, pp 65-6. Protestantism, largely a middle-class medium, pontificated on religious solutions to social problems for the working class generally and to the poverty-stricken and poor, more particularly. See also; Bob Birrell (2001) *Federation: the Secret Story*, pp 59-64. To liberal reformers like George Higginbotham (Victorian Attorney-General in 1867 and later, High Court Judge) a comprehensive public education system was the best tool with which to solve many of the existing social problems. Connell, R and T Irving (1992) *Class Structure in Australian History*, p 134. Indirectly, the Protestant churches contributed to the state's expansion in the cultural sphere by using 'citizens leagues' to mobilise bourgeois morality as a force in electoral politics. There were many church people who played a more direct role, as liberal individuals, in movements for women's rights, pensions, labour settlements for the unemployed, early closing and so on. Each of these movements sought state action in some form. Ironically, in the late-1890s, it was customary for bourgeois intellectuals to lament the loss of the voluntary spirit and to blame it on the working-class strategy of seeking reforms through state action. By 1890, spokesmen for the churches and the bourgeois voluntary organisations were complaining not just of failure, but of failure to reach the working class, which had established its own intellectual, political and social milieux.

movement; something that was to galvanise workers throughout the later 1880s and was to prompt their leadership to challenge the forces of capital for industrial supremacy during the 1890s. The Great Strikes were a direct outcome of this federal approach to union organisation.³⁵⁵

The Great Strikes of 1890-94 are widely accepted as having been a seminal event in the relations between the forces of labour and capital.³⁵⁶ While sometimes referred to as the Maritime Strikes³⁵⁷, the industrial chaos that resulted from the Great Strikes affected more than just the wharfs of Sydney and Melbourne. Miners, shearers, wharf labourers, transport workers and associated unionists across New South Wales, Victoria and Queensland combined to take on the might of the employers, who had hastily assembled a united organisation through which to resist the working classes.

From the 1860s, unions had been slowly organising into cohesive and powerful groups; while employers (a seemingly disparate group) had been viewing the union 'build up' with growing concern. In this industrial climate, unions aggressively challenged the right of employers to determine working conditions, hours of work and rates of pay. The unions had suffered defeats during the 1880s but, by and large, had won more of the industrial confrontations than they had lost.³⁵⁸ As the 1890s approached and economic conditions weakened, the leaders of capital decided that the time had arrived when the influences of labour needed to be directly challenged, once and for all.

Industrial confrontation between the forces of capital and labour was thus not an issue

³⁵⁵ Fitzpatrick, Brian (1944) *A Short History of the Australian Labour Movement*, pp 52-63. By 1889 unionists had been voted into colonial legislatures and had obtained passage of labour legislation. Unions had federations across the colonies in which unions of various ilk participated. As Fitzpatrick notes, bearing this federal approach to unionism in mind, we may approach the events of 1890-94 as the culminating point of a trade union movement which had until then advanced from victory to victory. See also, Gollan, Robin (1966) *Radical and Working Class Politics*, pp 106-7. As Gollan notes, the constitution of the Australian Labour Federation provided for a greater degree of unity of the trade union movement than had ever existed in any country. It was to include all unions, organised in a pyramidal structure, governed by district, provincial, and national councils.

³⁵⁶ Rickard, John (1976) *Class and Politics*, pp 7-8. To Rickard, the Great Strikes were turning points in Australian history, however much historians may wince at this!

³⁵⁷ Ibid, p 181. See also, Burgmann, Verity, (1985) *In Our Time*, p 11; Scates, Bruce (1997) *A New Australia*, p 76.

³⁵⁸ Gollan, Robin (1966) *Radical and Working Class Politics*, p 108. Up to the end of 1889 the unions had met with very few setbacks. They had taken part in some hard and bitter struggles, but in general they had achieved their objectives. Such was their success that they were aspiring to reach agreements with employers that would cover a whole industry.

that had suddenly surfaced in the heat of 1890, as might be supposed from some accounts.³⁵⁹

Although unions have invariably organised to alleviate life-threatening working conditions, or to ensure that workers and their families have the means to maintain a reasonable standard of living, unionism has a history of hostile reactions from the forces of capital, whether in Australia or in Britain. British unions were illegal until 1871, when social legislation was forced through the British Parliament, largely because of working-class pressures. British parliamentarians (predominantly middle and upper-class men) feared the power of the 'mob' and set about granting limited social and political rights to some members of the working-class; unionists in particular benefited from these initiatives.³⁶⁰ Like their British counterparts, Australian unions were also at the mercy of legal institutions well into the twentieth century.

With unions becoming legally recognised across the colonies during the 1880s,³⁶¹ existing class-based legislation, in the shape of the Masters and Servants Acts³⁶², ensured the state held the whip hand during industrial confrontations between capital and labour. The Master and Servant Acts that were passed in the colonies in the 1840s (which were based on their British precedents) were a *real* piece of class-based and repressive legislation. By 1864 the Acts had become draconian and were often cruelly utilised by the authorities during the industrial conflict of the 1880-1890s. Desertion of duty, disobedience to an employer and the threatening of public order were all generalised charges that capital could lay against unionists in times of

³⁵⁹ Fitzpatrick, Brian (1944) *A Short History of the Australian Labour Movement*, pp 64-97. Class warfare on the scale of 1890, with large-scale rearguard actions by units of the defeated unionists until 1894, had never taken place in Australian before, and has not been repeated. Fitzpatrick develops a picture of a confident union movement that had grossly underestimated both the power of, and benevolence of, employer organisations, at the turn of 1890.

³⁶⁰ Gollan, Robin (1966) *Radical and Working Class Politics*, p 79. Until the passage of the *Trade Union Act (1871)* unions were not entities recognised by the law. The greatest disability that this entailed was that unions were unable to hold property. This disability was overcome with the 'Act of 1871'. However, at the same time the Criminal Law Amendment Act reaffirmed and even increased the stringency of penalties for picketing, intimidation, molestation, and watching and besetting. As interpreted by the courts, almost any activity incidental to a strike could be brought within the meaning of these terms.

³⁶¹ Fitzpatrick, Brian (1944) *A Short History of the Australian Labor Movement*, p 62.

³⁶² Markey, Ray (1988) *The Making of the Labor Party in New South Wales: 1880-1900*, p 122. As noted, these Acts were originally British legislation applied to the colony of New South Wales for the purpose of enforcing labour contracts.

industrial strife. In 1884, for example, bakery unionists in Sydney were gaoled for having the 'temerity' to strike over working conditions and wages, although working conditions and wages were, at best, intolerable.³⁶³

As will be highlighted in subsequent paragraphs, during the 1890s industrial mayhem union leaders were gaoled for seeking improvements in working conditions, wage levels, hours of work, or the freedom to legally organise. The strikes of the 1870-1900 period were often interspersed with state intervention on the side of capital.

Consequently, conflict between capital and labour in Australia at any time during the nineteenth century could be, and usually was, met with the full force of the law. State intervention on the side of capitalists did not prevent workers from organising into unions and challenging the legitimacy of the state, however. As implied by some historians, unions during this period did not grow in a continuous progression, their development depended as much on economic conditions as any other factor.³⁶⁴

Miners across Queensland, Victoria and New South Wales were the first to raise the banners of unionism, organising for a variety of reasons associated with the pursuit of economic, political and social justice.

4.3 Mining Unions

As early as 1861 the Hunter River Coal Miners' Protective Association (a mining union) began a campaign for increased wages and better working conditions, indirectly resulting in the formation of the first combination of employers in Australian history.

The Wallsend Coal Company, the Coal and Copper Company, A A Companies, and J A Brown, combined to give fourteen days' notice to mining unionists of a 20% reduction

³⁶³ Ibid, pp 122-23. See also, Robin Gollan (1966) *Radical and Working Class Politics*, pp 102-5, for a comprehensive overview of this event.

³⁶⁴ Markey, Ray (1988) *The Making of the Labor Party in New South Wales: 1880-1900*, pp 7-8. Ray Markey argues that many writers of Australian labour history fit the classical interpretation mould. Historians like Robin Gollan, Brian Fitzpatrick, Russell Ward and Ian Turner fit this description. Their interpretation is in turn built on an earlier one by historian W K Hancock. Collectively, theirs is an optimistic story of radical and working-class achievement in building institutions – trade unions, the Labour Party, arbitration, the beginning of a welfare state – all of which emerged as a result of growth in working-class consciousness and militancy of the 1880s, and of the social and economic crisis of the 1890s. Underlying these achievements was an Australian nationalism, which, in the context of class struggle, was infused with a radical egalitarianism content, because of its working-class, and especially rural working-class base.

in wages. The ensuing strike action lasted for three months. During July of 1872, unionists in the New South Wales coal mines struck for two weeks seeking better pay and conditions. They subsequently won a reduction in working hours from twelve to ten point five hours per day against a group of organised coal producers.³⁶⁵

Similarly, in 1872 the Bendigo Miner's Association won an eight-hour day for their gold-mining colleagues. As a result of these successes twelve unions on the Victorian goldfields combined forces to form the Amalgamated Miners Association (AMA) of Victoria. By 1888 this association had branches in all colonies and New Zealand, comprising some twenty five thousand unionists. Interestingly, this union conglomerate had struck twenty nine times in its short history, with a high rate of success,. As a consequence of the intensive nature of this activity, the Victorian Miners' Association (an employer organisation) and the AMA set up a joint conciliation committee to solve industrial disputes. In each of these cases, the employers ferried strike breakers to the industrial flashpoints, hoping to break the will of the unionists and to indicate to them that the forces of capital would reign supreme.³⁶⁶ Fortunately for unionists, skilled labour was in short supply during the 1870-80s and a 'general equality' of industrial power existed between employer and employee.

In 1886 Broken Hill Proprietary (BHP) lead and silver miners struck and won an eight-hour day. Likewise, unionists at BHP struck for a week in 1889, with the owners capitulating in the face of considerable economic losses. Union numbers in New South Wales' mines had trebled by 1888, providing the union movement with an unprecedented level of industrial strength. Unionists confidently struck for thirteen

³⁶⁵ Fitzpatrick, Brian (1944) *A Short History of the Australian Labor Movement*, p 45. Fitzpatrick notes that by 1860, employers in Newcastle coalmines recognised that the spirit of unionism was having an effect. Buoyant economic times, along with government deregulation in the mining industry generally, had led to union agitation for improved working conditions and wages. For the effects of immigration, in particular British trade unionists, on the mining industry in New South Wales and Victoria during the 1860-90 period, see Buckley, Ted and Ken Wheelwright (1988) *No Paradise For Workers*, pp 103-4.

³⁶⁶ *Ibid*, pp 43-51. See these pages for a brief history of unions in the mining industry. Understandably, employers viewed groups of men organising into unions with a great degree of suspicion. That unionists then won concessions from employers must have been a bitter pill for employers to "swallow".

weeks in the southern coalfields, seeking improvements in working conditions, levels of pay and hours of work.³⁶⁷ Many English, Irish and European unionists were active in the Australian colonies between 1840 and 1890, leading and cajoling their Australian counterparts to actively challenge the powers of capital and the state. Their influence was directly responsible for the granting of an eight-hour day to some sections of the mining industry, the secret ballot and manhood suffrage. All these were won in Australia long before they were achieved in other parts of the world, particularly in Britain.³⁶⁸

As with other unions, the mining unions benefited from an upturn in economic activity across eastern Australia during the 1870-90 period. Twenty years of prosperity saw mining unions flourish. With the aims of securing the eight-hour working day for their comrades, removing coloured labour from the mines, increasing wages and improving working conditions, the mining unions were mainly victorious in their encounters with employer groups. The confederation of several mining unions also strengthened their bargaining power, witnessed in the formation of the AMA in 1874.³⁶⁹ As the end of the 1880s approached and economic conditions tightened, employer groups were less inclined to make concessions to their employees over wages and conditions. By late 1890 employers were preparing for a showdown between the forces of labour and capital.

³⁶⁷ Ibid, pp 48-50. The growing strength of union 'muscle' becomes evident when union numbers are assessed. According to Fitzpatrick, during the mid-1880s, the Amalgamated Miners Association (AMA), a mining union, had 25,000 active members in New South Wales, while 51 branches across Victoria had 23,000 members. Moreover, during the New South Wales Strikes Commission in 1891, union leader W G Spence claimed the AMA had active branches across all seven colonies.

³⁶⁸ Buckley, Ted and Ken Wheelwright (1988) *No Paradise For Workers, 1914*, pp 166-67. Australian trade unions led the world in winning an eight-hour working day. A major breakthrough came in 1856 in Melbourne and Sydney, where building tradesmen – especially those in Stonemasons' Societies – forcefully agitated for a reduction of hours and secured employers' agreement to it. See accounts of other unions across the colonies winning the right for improved working conditions and hours of work.

³⁶⁹ Fitzpatrick, Brian (1944) *A Short History of the Australian Labor Movement*, p 49. The history of the AMA may be dated to February 1872, when its nucleus, the Bendigo Miners' Association, won the eight-hour day for goldminers. This success encouraged miners across the Victorian goldfields to organise into unions or associations. Twelve of these bodies met at Bendigo in June 1874, with Robert Clark, M L A in the chair. They formed themselves into the Amalgamated Miners' Association of Victoria, electing Clark as their secretary.

In the face of rapid and vigorous union organising, mining employers also saw the benefits of combining against the power of organised labour. As previously noted, as a consequence of the Hunter River Coal Miners' Protective Association's industrial action in 1861, a number of mining companies combined to significantly reduce the wages of mine workers. Although the ensuing industrial confrontation lasted three months, the employer's united front presented them with greater industrial power than they otherwise would have possessed. Such things indicated to other employers that there were benefits in organising against a rapidly developing union movement. Large companies like BHP did not see the need to combine with other like organisations prior to 1890, as their economic base was sufficient to withstand the challenges of union-based industrial confrontation. The Great Strikes of 1890 put an end to this, however, largely due to the depth of involvement of both unions and employers. Few organisations, either employer or employee, could survive alone and intact during this period of industrial mayhem.

4.4 *The Extension of Trade Unions*

Although the mining unions were active prior to the Great Strikes, workers in other industries had taken the initiative and had begun to organise. The initial Australian unions were combinations of skilled workers, similar to their English counterparts. The general pattern of their development toward political activity was also similar, however there were some differences to these patterns. Australian industry was in its infancy, yet to expand to the levels seen in the 1860-70s. Amalgamation on a national scale was precluded for most unions largely because of the isolation of the colonies and because of concentration of population and industry in Sydney and Melbourne.³⁷⁰ The exception to this was the Amalgamated Society of Engineers, established in Sydney in 1852 by migrant ironworkers as a branch of the great English union.

³⁷⁰ Horne, Donald (1971) *The Lucky Country*, Penguin Books Australian Ltd, Adelaide, pp 25-9. Few Australians realise that Australia was one of the first modern suburban societies. By the third quarter of the nineteenth century Australia already possessed one of the highest proportions of city dwellers in the world.

During 1861 the United Hodcarriers Society of Sydney organised into a union with the specific aim of procuring an eight-hour day for their workers. They succeeded in this but at the cost of a reduction in pay. This union was the direct precursor of the United Labourers Union, one that gave a voice, albeit a limited one, to unskilled workers.³⁷¹

The eight-hour day was an uneasy guest in both New South Wales and Victoria, always apt to disappear when the craft union organiser turned his back and ready to be challenged by employers. There was virtually no organisation of unskilled labourers during the 1870s; a clear hierarchy among tradesmen was alive and well, with the skilled men invariably looking upon their unskilled counterparts with derision.

Fortunately for unskilled workers, change was on the horizon.

In 1879 the Operative Boot-makers (a group of unskilled workers) also formed a union. Three years later they drew up a log of claims designed to bring about uniformity of wages and working conditions in their industry. After two years of negotiation they went on strike and were locked out by their employers in November 1884. The Melbourne Trades Hall Council (THC) supported the Boot-makers during a thirteen-week stoppage, channelling financial support from other unionists and sympathisers in all colonies, except Western Australia. The strike was eventually brought to an end by an agreement between the Melbourne THC and representatives of the Manufacturers' Association. This was an important struggle for two reasons. It was the first large-scale conflict in which a number of unions cooperated with the THC in a contest with employers. Second, it was influential in bringing the conditions of less fortunate sections of the working class to public notice.³⁷² The plight of women workers, in particular, came into the public eye through these actions.

³⁷¹ Fitzpatrick, Brian (1944) *A Short History of the Australian Labor Movement*, p 54.

³⁷² Gollan, Robin (1966) *Radical and Working Class Politics*, p 90. Although this confrontation was primarily an industrial issue, social issues were also brought to the fore because of it. The greed of avaricious taskmasters had come to the attention of Victorian liberals, in particular, who were attempting to have the Factory Acts amended in the face of deplorable working conditions – for men, women and children. Anti-sweating leagues were formed, acting as catalysts for the enactment of legislation which was designed to protect workers' rights and conditions of work. At the same time, anti-sweating leagues in Britain were also active in reforming the workplace. Future Constitution-maker, William Trenwith (a Victorian union official during the 1870s) was active in the anti-sweating movement.

While much attention is given to the masculinity and virility of unionism in Australia, although often poorly organised and exploited by unscrupulous employers, women were also involved in the industrial action of the time. The Victorian Tailoresses' Union came into being in 1882 after industrial action was taken against a wage reduction and poor working conditions. Recruitment was brisk and soon some three thousand women had joined. This union attracted much publicity, largely because the well-being and moral safety of younger women in particular, were held to be at risk from unscrupulous and exploitative employers.³⁷³ Despite the concerns of moral and social reformers, little changed for these women industrially, as they continued to be exploited by capitalist employers hungry for increased profit.

As mentioned, twelve mining unions had combined to form the AMA in 1874. In the same year, the Seamen's Unions in Melbourne and Sydney combined to form the Federated Seamen's Union (FSU) of Australasia. By 1890 this union covered all colonies, with Queensland remaining part of the Sydney branch until 1885. Militant by nature, the Queensland branch of the Seamen's Union struck for a week in 1878 against the introduction of 'coloured' labour on interstate shipping lines. The weak link in the chain of labour, however, was the railwaymen. This group did not unionise during the 1880-90s, mainly due to pressures from the forces of capital and colonial governments. They were deemed to be an essential service and thus not entitled to organise into a union.³⁷⁴

³⁷³ Fitzpatrick, Brian (1944) *A Short History of the Australian Labor Movement*, p 56. On 10 December 1882, 500 women and girls from the clothing store of Beath, Schiess and Co. were on strike against a wage cut. A union was formed immediately, with three male officers, including the secretary of the Melbourne Trades Hall Council, and seven female committee members. Recruits from other factories joined the new union, the strike was extended, with one thousand pounds collected for the women (strikers) in the first week. Gollan, Robin (1966) *Radical and Working Class Politics: A Study of Eastern Australia 1850-1910*, p 89. As Gollan notes, as a strike of women, this was a novelty. However, when their conditions of work and levels of pay became known, the women gained a great deal of public sympathy, and support.

³⁷⁴ Fitzpatrick, Brian (1944) *A Short History of the Australian Labor Movement*, p 61. In New South Wales railway workers formed the Amalgamated Railway and Tramway Service Association during 1886, despite the Railway Commissioner issuing a statement threatening penalties to those who joined this organisation. During 1880, Victorian railway unionists had also formed a secret union despite denunciation by the Minister for Railways. Deemed by the state to be essential services, these men were denied the right to organise.

If the railwaymen had attempted to unionise they would have suffered penalties, including job loss, gaol and loss of wages, such was the power and repressive capacity of the state with regard to certain workers during the period. These threats did not stop the railwaymen from supporting other unionists during strikes, however. They were active and effective lobbyists for the enactment of favourable legislation to the working class, while donating money and sustenance to other unionists involved in the ongoing industrial activity. Not surprisingly, the railwaymen didn't strike with other unionists during 1890 or 1891.³⁷⁵

Despite an appearance of cohesiveness among unions prior to 1890, sectional interests did restrict joint union organisation to an industry level only. The advantages of joint organisation were clearest, however, when a relatively large number of unions opposed a small number of employers, as happened in the shipping industry in the early months of 1890. Building unions in New South Wales had benefited from close ties, particularly after their joint eight hours campaign in the 1850s, resulting in the formation of the Building Trades Council in Sydney in 1882. In 1884 the Maritime Labour Council was formed to organise the maritime unions. Based on a relatively cohesive maritime community, the council proved effective in delaying loading of ships during a major industrial dispute in 1885. Sectional tensions did exist within union organisations, however, witnessed in the temporary breakdown of the Maritime Labour Council in 1885, when striking seamen did not consult with it before striking, even though the council was intent on supporting their actions.³⁷⁶

As expected, employer groups were active in protecting their economic interests, organising in opposition to a rapidly growing and increasingly confident union movement. During 1878 eighteen steamship companies combined to form the

³⁷⁵ Ibid, p 61.

³⁷⁶ Markey, Ray (1988) *The Making of the Labor Party in New South Wales: 1880-1900*, pp 156. The development of a centralised union leadership was, however, a contradictory process. On one hand, it was a manifestation of working-class mobilisation. But on the other hand, it contained the seeds of a centralised bargaining system that would often restrain class mobilisation. However, a tension always existed between members of craft unions in particular and less-skilled employees who were not union members.

Steamship Owners' Association of Australasia, while in 1879 employers in the boot-making industry established the Boot Manufacturers' Association. These two associations became the nucleus of the Victorian Employers' Union. Further organising by employers was catalysed by industrial confrontations during the 1880s. In 1882 Pastoralist Unions in all colonies set up a comprehensive system of Federal Councils to more effectively challenge the unions and in 1888 an Employers' Union was created in New South Wales. During November 1884, the Boot Manufacturers' Association in Victoria, comprising sixty employers, locked out fourteen hundred men, as an answer to the anti-sweating campaign conducted by the Operative Boot-makers' Union.³⁷⁷ With this magnitude of organisational activity on the parts of both capital and labour it was only a matter of time before a major clash between them took place.

4.5 Increasing Conflict

Wider and more serious conflict developed between unions and employer groups during 1885 to 1886, particularly within the maritime industry over wages, working conditions and hours of work. The fight for the introduction of an eight-hour working day was but one highly publicised example of these actions. Amid increasing industrial conflict, the owners of shipping companies in Melbourne refused wharf labourers time off to attend the eight-hour day procession on 5 May 1885. The wharf labourers subsequently organised themselves into a union, and on 15 May served notice on the Shipowners' Association demanding pay increases and the introduction of the eight-hour working day (within three months). As these demands had not been met by employers, on New Year's Day 1886, 900 men ceased working on the Melbourne waterfront. Eight steamship companies were affected and attempted to overcome their

³⁷⁷ Ibid, pp 157-8. The challenge which union mobilisation presented to employers provided them with the final motivation for greater unity. As noted, in 1888 a federation of employers in New South Wales was formed, reflecting an increasing militancy by maritime, pastoral and mining unions. In the context of the time, these organisations clarified class alignments, although unity in both capital and labour camps was weakly based. Organisation on this scale did reflect an upcoming crisis coloured by increasing conflict.

difficulties by offering non-union labourers the pay, conditions and hours the unionists had demanded.³⁷⁸

After the strike had been in progress for ten days, the Seamen's Union notified the Shipowners' Association (on 11 January 1886) that its members would not staff vessels bringing non-unionised labour to Melbourne. The unionists claimed that they were compelled to take this course owing to the struggle having assumed a new phase, a struggle between capital and labour.³⁷⁹ This phraseology was significant as it indicated a hardening of attitudes amongst the workers generally, not only those on the wharfs. The 1886 strikes were also an important event in the history of relations between capital and labour, largely because several unions resorted to direct action in support of one another but also because a settlement was reached by means of the first board of arbitration, as distinguished from a board of conciliation, which had met on a great labour question in Australia.³⁸⁰

With a number of waterfront unions combining during the industrial confrontations of 1886, many in the union movement saw the benefits of organising, particularly when directly challenged by the forces of capital. Their actions had effectively shut down the ports of Brisbane, Hobart, Adelaide, Sydney and Melbourne during these confrontations. The formation of the Amalgamated Shearers' Union of Australasia (ASU) (during 1886) was another important development for the union movement, having a twofold effect upon relations between unions and employers. It not only brought a disparate group of pastoral and rural labourers under the union banner, but also propelled ASU leader W G Spence into prominence. Like the AMA, the ASU soon

³⁷⁸ Fitzpatrick, Brian (1944) *A Short History of the Australian Labor Movement*, p 57. Oddly enough, the principle of unionism was as yet so little realised by shipowners that they offered AMA members at Bendigo (goldminers) a 25% wage rise if they came to Melbourne to replace striking maritime workers. Non-union labour was, in fact, brought from Adelaide, but union pickets kept the free labourers off the wharves. From this perspective, it can seem unions had overrated their collective strength, or completely underestimated the power of the employers.

³⁷⁹ *Ibid*, pp 57-8.

³⁸⁰ *Ibid*, p 96.

spread across Australia and New Zealand, largely due to the organisational efforts of the mercurial Spence.

Spence believed that unions would be best served in their struggles for wages and conditions if they amalgamated by linking together the various societies or unions that covered any particular trade. He was not thinking of creating an industrial union that contained all workers in a specific industry at this point in time; that was for the future. He also advocated an Australian federation of unions. By 'federation' he meant a loose association of amalgamated unions with executive authority over a limited number of general matters.³⁸¹ Spence also believed that a combined union approach to dealing with colonial governments, over matters such as the Trades Union Bill and legislation introducing the eight-hour day, would be more beneficial than the struggles of individual unions. Strongly influenced by British unionism, Spence thought a federal council of Australian unions would function in a manner similar to the Parliamentary Committee of the English Trades Union Congress.³⁸²

Spence was a central player in the industrial unrest of the 1880s and 1890s. His power did not come without substantial consequences, however. Spence was accused by some employers of being directly responsible for the industrial mayhem that occurred in the 1890s, while accusations of collusion with employer groups were made by some sections of the unionist movement.³⁸³ Largely through Spence's tireless campaigning, by 1889 the ASU boasted a membership of 22,500; while, according to Bob Gollan, the associated Queensland Shearers' Union had about 40,000 members on its books.³⁸⁴

³⁸¹ Gollan, Robin (1966) *Radical and Working Class Politics*, p 96. By federation (of unions), Spence intended a loose association of amalgamated unions which would have executive authority on a limited number of general matters such as the Trades Union Bill and the legislation of the eight-hour day.

³⁸² *Ibid*, p 96. In Spence's opinion, the federal council would function in a similar manner to the Parliamentary Committee of the English Trade Union Congress.

³⁸³ Rickard, John (1976) *Class and Politics*, pp 11-13 and 29-32. As Rickard notes, some historians attribute much of the industrial conflict of the early-1890s emanating from Spence's mismanagement and his grand strategy of bluff. Few of these same historians consider Alfred Lamb (the catalyst behind employers organising) and his role in the development of the strikes. Lamb was primarily responsible for determining and coordinating the employers' tactics during the strikes. Lamb's efforts were far more successful than were Spence's.

³⁸⁴ *Ibid*, pp 102-3. Gollan's membership numbers for the ASU are challenged by Ray Markey (1988) *The Making of the Labour Party in New South Wales 1880-1900*, pp 141-45. Markey believes the ASU had as few as 13,000 members.

The shearers' unions were to become not only militant in their outlook but quite prepared to back their leadership in pursuing increases in pay, improvement in conditions and, in particular, the principle of the 'closed shop'.

Membership of the ASU was extremely volatile, largely because its core membership comprised an itinerant, part-time workforce that included numerous small landholders who followed the shearing season across Eastern Australia. Although many members had great faith in the power of their union, it too had its weak points. The ASU leadership were eager to enforce the principle of the 'closed shop' over pastoralists, but the unreliability of some sections of its eastern membership in New South Wales and Queensland put such things in doubt. Despite its weaknesses, given the diversity of its origins, the organisational efforts of the ASU were impressive. Notably, its influence extended well beyond the pastoral industry. Even with his faults, Spence and his union-based activities were an example for other union organisers to emulate.³⁸⁵

At the peak of its power in 1889, the union movement in Australia could spare the significant sum of 30,000 pounds to send to their striking comrades in England; such was its confidence and wealth. From this, it is evident that the union movement had the ability to take the class struggle up to the capitalists. With Labor representing their class in colonial parliaments, by the late-1880s working-class confidence was truly beginning to flourish.³⁸⁶ And by the 1890s unions had either established federal labour councils or were actively pursuing cross-colonial alliances in various trades.³⁸⁷ The

³⁸⁵ Historians have made much of W.G. Spence. Opinion has been divided. Gollan, Robin (1966) *Radical and Working Class Politics: A Study of Eastern Australia 1850-1910*; Markey, Ray (1988) *The Making of the Labor Party in New South Wales: 1880-1900*; Fitzpatrick, Brian (1944) *A Short History of the Australian Labor Movement*; Buckley Ted and Ken Wheelwright (1988) *No Paradise For Workers*, for example, wrote left-leaning histories favourable to the union movement and the fledgling colonial labour parties. These same historians believe Spence's influence on the industrial milieu of the 1880-1900 period was positive. Other historians portray Spence in negative images and generally give him little or no coverage in their texts. See for example: de Garis, Brian (1974) '1890-1900', in Crowley, Frank (1974) (ed) *A New History of Australia*, William Heinemann Australia Pty Ltd, Melbourne; Irving, Helen (1997) *To Constitute a Nation*; Birrell, Bob (2001) *Federation: The Secret Story*; Chesterman, John and Brian Galligan (eds) (1999) *Defining Australian Citizenship*; Hirst, John (2000) *The Sentimental Nation*.

³⁸⁶ Rickard, John (1976) *Class and Politics*, pp 40-2. See these pages for the early successes of the labour electoral league candidates in New South Wales, Victoria, South Australia and New Zealand. The success of labour league candidates in New Zealand greatly encouraged Australian labour parties.

³⁸⁷ Gollan, Robin (1966) *Radical and Working Class Politics: A Study of Eastern Australia 1850-1910*, p 132. A Labour Defence Committee was formed in Sydney in 1890 to coordinate union activity during the Maritime Strike. Representing

strongest of the unions were the seamen in the major ports of Melbourne, Sydney and Brisbane; the miners on the Victorian goldfields and Newcastle coalfields; and the Broken Hill silver miners. All had already become participants in systems of strike prevention by involving themselves in processes of conciliation and arbitration.

With the unions actively organising, Spence also saw merit in employers doing likewise, all in the name of industrial harmony. Spence did not understand or believe that an active system of class operated within colonial Australia. He firmly believed that capital and labour could become equal companions on a shared journey of facilitation by conciliation and arbitration.³⁸⁸ He seemed not to acknowledge the often selfish behaviour of both capital and labour when in positions of power, the desire for social, political and economic hegemony by capital and its middle-class allies, or that class was a motivating factor for many middle and working-class individuals and organisations.³⁸⁹ Like Spence, the 1890s remain a contested and contentious era for historians.

What is obvious, is that much of what happened after 1890 in the way of industrial conflict had firm roots in the preceding twenty years. To Brian Fitzpatrick, 1890 is not nearly so clean a line of demarcation in the history of the Australian Labour movement.

To Fitzpatrick:

*What was done after 1890 was to elaborate and extend what had been achieved in the years since 1885, a period that included the advent of a primitive system of industrial arbitration and Labor politics. Of greater importance, however, was the development of the technique of the general strike in which workers across several industries unite to pursue their industrial objectives.*³⁹⁰

the greater part of the union movement in New South Wales, this organisation was later broadened into an Inter-colonial Conference with W G Spence as secretary. Federation of the union movement had thus begun.

³⁸⁸ Ibid, pp 127. Spence always insisted that he was prepared to work with employers and employees to improve the conditions of both capital and labour around the country. His great belief was that all industrial confrontations should be able to be settled around the conference table.

³⁸⁹ Birrell, Bob (2001) *Federation: The Secret Story*, p 236. Although Spence is lauded by labour historians, it is difficult to disagree with Birrell's alternative ideas on him. Birrell's claim that Spence held a benign and optimistic view of the community and the possibilities of state intervention on its behalf in favour of social reform is difficult to refute. Birrell's further claim that Spence's writings were little more than populist, utopian, appealing to Australian colonials to overturn the corruption and inequities of the capitalist class structure, are fairly accurate.

³⁹⁰ Fitzpatrick, Brian (1944) *A Short History of the Australian Labor Movement*, p 63.

Bearing such things in mind, the events of 1890-94 can be viewed as the culmination of a trade union movement that had, until then, advanced from victory to victory.

Importantly, 1890 also became a watershed in the hardening of employer, government and middle-class attitudes to issues of law and order, largely as a consequence of what they believed to be a union-inspired period of industrial anarchy and social revolution.

'Law and order' was of paramount importance to the middle class as the 1890s unfolded. This was particularly the case as the Great Strikes (1890) were still vivid in the minds of many middle-class individuals and families who were certain of the imminence of social revolution. In their view social upheaval or revolution threatened the 'natural order of society', that is, the institutions of power, authority and hegemony that the middle-class had put in place since 1788.³⁹¹ The middle classes also believed that they had been largely responsible for the progress made thus far in colonial Australia; they were loath to forfeit this position to another class, especially the working class.³⁹²

An effective method for maintaining the power and authority of the middle class was the collusion of state and employer groups in opposing what they believed to be the anarchy of the union movement. Those in government and employers were all concerned with 'running the country' in the normal way; that is, in terms of their images, philosophies and principles. Although colonial governments did not work from a script handed to them by employer organisations, they approached the increasing industrial unrest with a common sense of unity and purpose. Both capital and the state supported the swearing in of special constables (often young middle-class men), the

³⁹¹ Rickard, John (1976) *Class and Politics*, p 24.

³⁹² *Ibid*, pp 23-4. Once the Maritime Strike had begun in 'earnest' in 1891, attitudes began to change. Initially, middle-class folk felt empathy for unionists, however this rapidly changed. As Rickard notes, some accounts of the strikes imply that the actions of various colonial governments in this and later strikes were consciously designed to help employers. The actions of the Queensland Government against striking shearers, particularly the swearing in of special constables and armaments being taken to pastoral areas to quell strikers, is ample evidence law and order was a pre-eminent issue.

mobilisation of the military, along with threats to unionists and workers that they would face the full force of the law should matters get out of hand.³⁹³

4.6 Capital versus Labour

Class warfare on the scale of 1890, with large-scale rearguard actions by the defeated (unions) until 1894, had never taken place in Australia before and has rarely been repeated since. While serious industrial conflicts took place in Victoria in 1903 and 1928-29, Queensland in 1912 and 1928-29 and in New South Wales in 1909, 1917, 1929-30 and 1940, only in 1890 was there a general stoppage of all workers in the unionised key production industries and in three out of four sections of the unionised transport workers. The question is often asked why the year 1890 saw a major confrontation between capital and labour. The answer to these questions lies in the economic conditions of the time.³⁹⁴

Massive borrowing abroad had fuelled a frenzy of speculation in the colonies throughout the 1880s. Banks and numerous other financial institutions had been created with very little capital, pastoral properties were mortgaged well beyond their value and urban land values were bordering on the ridiculous.³⁹⁵ As the 1890s approached, people in the colonies faced a time of reckoning, as inflated land booms collapsed, the value of Australia's exports fell dramatically and the sudden withdrawal of overseas investment saw colonial economies spiral into recession, then into full-scale depression. Unemployment rose to unprecedented levels: as many as one in every three Australians was out of work by 1892; while those fortunate enough to retain

³⁹³ Markey, Ray (1988) *The Making of the Labor Party in New South Wales: 1880-1900*, p 128. Even though colonial governments considered the employers' actions extreme, they shared a broad outlook which saw the miners' activities as a threat to properly constituted authority and the property relations which they were bound to uphold. New South Wales Premier Henry Parkes revealed a similar outlook in 1890, when, even though he restrained the more militant employer-oriented factions in his government, he perceived the widespread maritime strike as tantamount to 'revolution'. Government and employers were both concerned with running the country 'in the normal way'.

³⁹⁴ Fitzpatrick, Brian (1944) *A Short History of the Australian Labor Movement*, p 64.

³⁹⁵ Hirst, John (2000) *The Sentimental Nation*, p 111. The London money market temporarily lost faith in Australia. The collapse of the economy and its financial institutions confirmed the doubts it had been harbouring since the late-1880s that Australia was borrowing too much and not investing wisely. See also Brian Fitzpatrick (1944) *A Short History of the Australian Labor Movement*, pp 65-6, for an analysis of colonial borrowings and the impact these had on society.

their jobs seldom had the security of full-time employment.³⁹⁶ Each of the colonies faced the ensuing economic and subsequent social disasters at different times with very different approaches on the part of authorities.³⁹⁷

During 1890 Victoria was beginning to experience an economic downturn, following the economic peak of 1889. Land values, wholesale prices and production were all in sharp decline.³⁹⁸ Recession was imminent but depression was still another two years away. In New South Wales, South Australia and Queensland, 1890 was a period of rising economic activity, with a downturn not experienced in each of these colonies until 1891. Economic depression did not effectively take hold in most colonies until after 1892, after which there was a dramatic decline into the trough of 1894-5.³⁹⁹ Likewise, rural Western Australia was damaged by the economic malaise. The discovery of gold at Kalgoorlie and Coolgardie during the late 1880s tended to offset this. Undoubtedly the 1890s were a time of economic turmoil in colonial society, one that affected every aspect of colonial life.

The early 1890s, then, marked an end to a period of economic prosperity and a loss of certainty or surety concerning social order. Replacing feelings of confidence were those of confusion, doubt and a rising fear of social dislocation, particularly amongst the middle classes. To the middle class it was time to take back the initiative from the working classes.⁴⁰⁰ Prior to 1890 the union movement had usually been victorious in its campaigns; unions were highly financial, memberships had flourished and confidence was booming. Conversely, employer groups had suffered defeats, seemed

³⁹⁶ Scates, Bruce (1997) *A New Australia*, p 2.

³⁹⁷ *Ibid*, pp 111-113. British money had largely been responsible for major investment programs like railways, mining, governmental infrastructure and the pastoral industry. Each of these industries was essential to the economic well-being of the colonies at the time. Scates, Bruce (1997) *A New Australia*, pp 2-3. Scates concurs with Hirst on the economic malaise of the 1890s and the destruction that was visited upon many individuals and families at the time. By 1892 as many as one in three Australians were out of work. Those that had a job seldom had the security of full-time employment.

³⁹⁸ Fitzpatrick, Brian (1944) *A Short History of the Australian Labor Movement*, pp 65-6.

³⁹⁹ Rickard, John (1976) *Class and Politics*, p 7. Rickard maintains that the economic downturn did not begin until 1891. In both New South Wales and Victoria the first statistical evidence of the depression itself appears in 1892, after which there was a dramatic decline into the trough of 1894-5. Scates, Bruce (1997) *A New Australia*, pp 2-3. Scates concurs with Rickard on the timing of the economic decline in the colonies.

⁴⁰⁰ Fitzpatrick, Brian (1944) *A Short History of the Australian Labor Movement*, p 65.

disorganised and often acquiesced to the demands of unions.⁴⁰¹ This was all to be reversed in the 1890s.

As the economic conditions tightened, squatters, pastoralists, merchants and businessmen decided that they could not afford the demands of the unions and, as already mentioned, set about organising themselves and their institutions into centralised associations to protect their interests. Although no clearly defined business councils or employer organisations existed at the beginning of 1890, by year's end a tightly knit association of employers had been established and a hefty 'war chest' with which to challenge the unions had been accumulated. The further the issues of employer and employee organising are explored, the more it becomes obvious that employer groups were not sitting idly by watching the unions actively organising and developing their industrial (and political) muscle.⁴⁰²

The strikes of 1890 are often described as a battle between unions seeking to assert their principle of the 'closed shop' and employers seeking a system of 'freedom of contract'. This, however, is too simplistic an understanding of a highly complex set of issues that set in motion a series of events that severely affected each colony. Other issues prevailed as industrial unrest began to foment.⁴⁰³ As previously mentioned, employers believed that the time for concessions to unions was over; they felt it was time *they* determined the conditions of work and wages and they set about locking out workers in key industries. Contiguously, pastoralists repudiated agreements with

⁴⁰¹ Ibid, p 65. The irony of 1890 as a turning point in relations between capital and labour lies in the fact that in the latter months of 1889 employers had stood by helplessly while a combination of shearers', wharf labourers' and seamen's unions had quietly and successfully laid it down that only union-shorn wool would be loaded by union labour on to union-manned ships.

⁴⁰² Rickard, John (1976) *Class and Politics*, Chapter 6. Throughout this chapter Rickard traces the development of the organisation of employer groups across the eastern colonies. The formation of the Employers' Federations of Victoria and New South Wales, the Employers' Mutual Defence Association of New South Wales, the Employers' Unions of Victoria and New South Wales, attests to the rapid development of employer organisations. Additionally, legislation passed by colonial parliaments with the express aim of limiting working-class and union influence on the functions and institutions of the state further indicates that employers were intent on limiting working-class power while increasing their own. See likewise in Ray Markey (1988) *The Making of the Labor Party in New South Wales: 1880-1900*, pp 69, 158, 160, and in particular, Chapter 4; Gollan, Robin (1966) *Radical and Working Class Politics* and Fitzpatrick, Brian (1944) *A Short History of the Australian Labor Movement*, both extensively discuss employer associations.

⁴⁰³ Svensen, Stuart (1992) 'Motives and the Maritime Strike', p 17, in Hagan, Jim and Andrew Wells (eds), *The Maritime Strike: A Centennial Retrospective: Essays in Honour of E C Fry*, Five Islands Press Associates, Wollongong, New South Wales. Svensen claims that the strikes centred around three main questions.

unions and attempted to cut shearing rates and reduce working conditions, issues that lead to confrontations in the pastoral industry between 1890 and 1894. When maritime workers struck across eastern Australia during 1890, they too were met by a highly united and aggressive employer organisation intent on breaking the unions' hold on the waterfront.

The 1890-94 confrontations between capital and labour can be roughly broken down into four phases.⁴⁰⁴ The first began with the maritime strikes of 1890, which soon involved far more than waterside workers in the ports of Melbourne, Sydney and Queensland, quickly including seamen, wharf labourers, shearers, miners of all types, carters, drivers and members of a miscellany of other unions. This phase began in August 1890 and reached its zenith a month later. The strikes began with a dispute on Jondaryan station in Queensland, when carriers and wharf labourers blockaded non-union shorn wool from Jondaryan.⁴⁰⁵ The squatters yielded in this instance, but importantly, the negotiations were carried on by their own association - the precursor of the Pastoralists' Union – an association that would quickly mushroom in southern states.

As a consequence of this action, and after prompting from financial institutions, Victorian pastoralists began to organise. Faced with worsening economic conditions and growing levels of indebtedness, employer groups saw union demands for the closed shop as a further erosion of their financial and industrial independence. As previously noted, the workers' campaign was organised by a Labour Defence

⁴⁰⁴ Buckley, Ted and Ken Wheelwright (1988) *No Paradise For Workers*, p 180. Between 1885 and 1890 employers' unions were established in all four eastern mainland states. The core of these bodies consisted of the Steamship Owners Association of Australasia (SOA), while shipowners across the colonies were generally well placed in other respects. For example, J. R. Carey was a wealthy shipowner and also chairman of the board of the *Daily Telegraph* (a Sydney-based newspaper). Although other steamship companies may have been experiencing difficult economic times, Howard Smith of Melbourne (a major shipping company) needed no such spur to be anti-unionist. Pastoralists also recognised the benefits of organising, something which led to the establishment of the Pastoralists' Union of New South Wales in 1890. The formation of the Pastoralists' Union represented the forging of the last link in the employers' chain. At this point in time capitalists felt that they had the strength to challenge the unions.

⁴⁰⁵ Fitzpatrick, Brian (1944) *A Short History of the Australian Labor Movement*, pp 67-8. See also, Burgmann, Verity (1985) *In Our time*, pp 12-13. To Burgmann, the importance of class as a factor in the causes and outcomes of the industrial confrontations of the 1890s has been downplayed by successive analysts and historians. More than anything else, Burgmann believes this has come about because socialists and anarchists are marginalised or deemed irrelevant in many colonial histories.

Committee in Sydney, consisting of New South Wales and Victorian Trades and Labour Councils, along with unions that were directly involved in the industrial actions. What set this industrial conflict apart from previous conflicts was the highly developed and centralised level of employer and employee organisation, along with the width and breadth of the conflict.⁴⁰⁶

The second phase of the industrial conflict of 1890-94 took place between January and June of 1891, when the Queensland Shearers' Union (QSU) took action against an employers' campaign to establish 'freedom of contract'. The QSU campaign was organised by the Australian Labour Federation, the coordinating trade union body that had been initiated in 1889 by William Lane, editor of the radical, Queensland-based *Boomerang* and *Worker* newspapers.⁴⁰⁷ The third phase of industrial conflict occurred between June and November of 1892, when Broken Hill miners, who had been locked out for a short time in 1890, but had emerged unscathed on that occasion, were on strike or locked out this time around. In this industrial action, the Amalgamated Miners Association coordinated the activities of the miners.⁴⁰⁸

The fourth phase of strike action was in many ways a 'swan song' for nineteenth century unionism. Queensland shearers, supported by many in New South Wales, strongly resisted a new agreement that had been imposed upon them by the Federal Council of the Pastoralists' Union. The unions were on strike between July and September 1894. During these strikes the Australian Labour Federation coordinated the shearers' activities.⁴⁰⁹ The basis of the troubles was the same in each case – the repudiation of the claim of trade unions to have a voice in determining conditions of employment by employers in key industries via all-Australian organisations. Although

⁴⁰⁶ For a comprehensive analysis of events see, John Rickard (1976) *Class and Politics*, pp 12-14.

⁴⁰⁷ Burgmann, Verity (1985) *In Our Time*, p 2. William Lane was a radical, socialist visionary, a dreamer who imagined a fairer and more just Australia, free from the ills of the capitalist society which developed in the colonies. Unlike non-socialists in the labour movement who sought means of expressing working-class interests within the old order, men like Lane believed the creation of a new order, a socialist society of one kind or another, was imperative.

⁴⁰⁸ Fitzpatrick, Brian (1944) *A Short History of the Australian Labor Movement*, pp 67-8.

⁴⁰⁹ *Ibid*, p 68.

the 'freedom of contract' versus the 'closed shop' representation is often labelled as too simplistic an understanding of the troubles of the 1890s, there is a modicum of truth in this claim. Employers were intent on regaining the initiative from the unions in the industrial sphere, and were in no mood to make compromises to the defeated unionists. In short, they were determined to establish and protect their political, social and economic hegemony.⁴¹⁰

The Broken Hill strikes and their aftermath were clear indications of classic class conflict, between the forces of capital and those of the working class. As Robin Gollan notes:

*The strike reduced the majority of the Broken Hill miners to complete destitution or drove them from Broken Hill, some never to return. The unions were finally defeated by hunger and the action of the Dibbs government in arresting and prosecuting the leaders.*⁴¹¹

Unions were consistently tested by the employers in the industrial conflict that occurred during the 1890-94 period. After the strikes were over, employers forced workers to beg for work on the employer's terms.⁴¹² Colonial governments had sided with employer groups to end the strikes, often by employing the repressive forces of the state, the army, police and militia.⁴¹³

The unions were devastated by employers during the strikes of the 1890s, despite holding an apparent upper hand at the outset of 1890. At the beginning of the strikes it would have been difficult to predict who would prevail; at their conclusion it would have been difficult to imagine how the employers could have lost. Although the workers had been supported by the middle classes in the initial stages of the industrial unrest of this

⁴¹⁰ Clark, Manning (1999) *A History of Australia*, Volume V, p 49. Employers clearly believed the time had passed for concessions to the unions. Unionists could either take or leave the conditions employers had set: many unemployed and needy men were waiting in the wings to take a unionist's place in the workplace. With government assistance in the way of special constables and mounted police (armed), employers could ensure victory was theirs.

⁴¹¹ Gollan, Robin (1966) *Radical and Working Class Politics*, p138.

⁴¹² *Ibid*, p 133. As the strikes collapsed, many employers made sure unionists drank to the full the gall of their defeat. Striking marine officers were required to apply for re-employment in the following terms: 'I respectfully beg to call your kind attention to the fact of my resigning from one of your company's ships on the 17 August, and having seen the folly of so doing, I beg to be reinstated in your company's service. I ask you to kindly consider my case, having served 15 years in the company's and your service'.

⁴¹³ Clark, Manning (1999) *A History of Australia*, Volume V, p 49. See above comments.

period, this soon faded as issues of law and order, the natural order of things and social stability became the catch-cry of employer groups and the capitalist press.⁴¹⁴

Politicians and press commentators regularly and boldly proclaimed these issues to be at the centre of the industrial conflict. The governments of New South Wales, Victoria and Queensland had each called out the police and state-sponsored militia, who were reinforced by some three thousand constables appointed to assist with the maintenance of order by quelling the unionists and their allies.⁴¹⁵

As Ray Markey notes, it is difficult to separate the interests of the state and employer groups in this period, as both cooperated on a daily basis during the strikes. What the 1892 (and ensuing) strikes revealed was not a conscious conspiracy, but the structural integration of the state and colonial capitalism. Even though colonial governments originally thought that the employers' actions were extreme, they shared a broad outlook with employers. Both perceived the unionists' activities to be a threat to properly constituted authority, to private property and to law and order. All were issues that those in colonial governments believed they were bound to uphold.⁴¹⁶ As already mentioned, several future Constitution-makers were directly involved in using the repressive forces of the state to quell the working-class challenge to middle-class hegemony.

⁴¹⁴ Rickard, John (1976) *Class and Politics*, pp 22-3. At the beginning of August, 1890, the *Daily Telegraph* (a Melbourne newspaper) observed that 'public sympathy naturally leans towards the men' (unionists) and on the eve of the industrial confrontations, the *Age* (another Melbourne newspaper) judged the shipowners to be 'chiefly blamable for pushing this quarrel to the point of rupture'. However, once the strikes had begun and once it became obvious that this was a struggle involving many industries, middle class attitudes hardened toward striking workers. As has been noted, law and order also became a prominent issue during the industrial confrontations.

⁴¹⁵ Gollan, Robin (1966) *Radical and Working Class Politics*, pp 132-35. The strikes of the 1890-94 period quickly became very public spectacles. Few urban dwellers were immune from their effects. Large groups of seemingly unruly unemployed workers and unionists regularly gathered in Melbourne, Sydney or Brisbane, constituting a threat (in the eyes of many citizens) to law and order. Although Gollan is highly critical of Parkes, Dibbs and other middle-class politicians for their actions against strikers, there is some justification for their actions. Many in power at the time were acutely aware that Europe had experienced a revolutionary period in the recent past: justifiably, law and order was a major priority for them. Newspapers like the *Sydney Morning Herald* were only too keen to trumpet the evils of unionist and other working-class agitation. In the 1890s, newspapers were read by a large cross section of society and were a potent medium for the transfer of news and other media.

⁴¹⁶ See page 149 of this thesis for further comments on this issue. See also; James, Bob (1986) *Anarchism and State Violence in Sydney and Melbourne 1886-1896*, Newey and Beath Printers Pty Ltd, Broadmeadow, New South Wales, pp 94-5. James notes that at the beginning of the Maritime Strike in Sydney in August of 1890, unionists were conducting themselves in an exemplary fashion but stout barricades began to go up around the Circular Quay warehouses from September 1 (1890), the day that (Henry)Parkes rejected the Trades and Labour Council offer of unionists to be special constables. Employees refusing their employers' 'requests' to enrol as special constables were sacked. Similar events took place in Melbourne during the same period.

4.7 Constitution-makers and Industrial Turmoil

Although the striking unionists garnered considerable middle-class support during late 1890 and early 1891, middle-class sympathy for their working-class counterparts rapidly diminished once the magnitude and violence of the industrial unrest became clearer to the public. This is nowhere better demonstrated than with respect to issues of law and order. The daily rallies by striking workers (in particular) in Melbourne and Sydney frightened those in institutions of power and authority. This led the ageing premier of New South Wales, Sir Henry Parkes, to claim that 'the state of things is little short of a revolution'.⁴¹⁷ Significantly, in March 1891, Parkes, the 'Father of Federation', presided over the first Constitutional Convention, an assembly of colonial representatives charged with devising a constitution for the new Australian nation.

Parkes was also intent on maintaining personal control over the military, police and militia in the industrial confrontations that had broken out during 1890, rather than ceding authority to his employer-oriented treasurer William McMillan, Constitution-maker in both 1891 and 1897-98. As an influential and successful merchant in New South Wales, McMillan was on the side of employers. A conservative both politically and socially, McMillan was also an effective treasurer for his colony during the early 1890s. Because of these attributes, he viewed the striking unionists with disdain. Parkes and McMillan were, however, not the only delegates to the Conventions to become directly involved in the industrial confrontations of the 1890s.

The Broken Hill strikes (1890-91), in particular, were notable for the direct intervention of several Constitution-makers. Although George Dibbs, New South Wales Premier (1885, 1889 and 1891-94) and Constitution-maker (1891), might have signed an agreement that would satisfy the unionists and enable their return to work after striking in 1878, his conciliatory gesture in this instance was in direct contrast to his actions a

⁴¹⁷ Rickard, John (1976) *Class and Politics*, p 23. The ageing Premier of New South Wales, Sir Henry Parkes, in spite of the heavy affliction of a broken leg, was determined to keep control of the military and police in his own hands, rather than allow the employer-oriented treasurer William McMillan, give the orders.

decade later when he called out the troops and police to disperse striking unionists.⁴¹⁸ Dibbs was heartless in his treatment of the striking union leadership, gaoling them with hard labour for lengthy periods, charging them with unlawfully conspiring against the state and with engaging in riotous behaviour.⁴¹⁹ Many of these (and other associated) charges were drawn from the draconian Masters and Servants Acts, which were used on working-class unionists who were understood to be disturbing the 'natural order' of things.⁴²⁰

Joseph Carruthers, Member of the New South Wales Legislative Council and future Premier (from 1904), was another Constitution-maker instrumental in calling out the troops against striking workers during 1888. He utilised the repressive forces of the state to return New South Wales to the 'natural order of things', after what he considered to be a period of industrial anarchy. Carruthers also had a strong dislike of Labor parliamentarians, drawing complaints from them for a total lack of respect.⁴²¹ According to Manning Clark, 'Joseph Carruthers called on Mr Deakin to form an alliance (in federal politics) with George Reid to save bourgeois society. Like other conservatives, Carruthers was a passionate believer in things English and the preservation of the status quo. 'God help us', he said, 'when the forces that made them (Labor members) get domination of Australia'.⁴²²

Thomas McIlwraith, Queensland Treasurer during the strikes of 1890-91, squatter and active member of the Federated Employers' Union of Queensland, was another Constitution-maker (1891) who was directly involved in suppressing the strikes. He

⁴¹⁸ Ibid, p 55. In an address to unionists in 1884, Dibbs extolled the advantages of boards of conciliation and arbitration. In 1891 his views received an unsympathetic hearing.

⁴¹⁹ Markey, Ray (1988) *The Making of the Labor Party in New South Wales: 1880-1900*, p 124. During an 1886 strike seven miners were gaoled for intimidation. During the shearers' strikes over the next two years there were a number of imprisonments for intimidation or obstruction of strikebreakers. At Broken Hill in 1892, the miners' leaders were imprisoned for seditious conspiracy, and numerous pickets were arrested for 'interfering with' strikebreakers. During the 1893 seamen's strike, 150 were arrested for picketing and assault.

⁴²⁰ Ibid, pp 122-8. Markey alludes to the charges that were brought against striking unionists and the heavy-handed penalties they received.

⁴²¹ Rickard, John (1976) *Class and Politics*, p 188. A little man with a great voice, Carruthers had none of Reid's humour or personal popularity ('he never even gave me civility', one Labor member complained.)

⁴²² Clark, Manning (1999) *A History of Australia*, Volume V, p 267.

seemed little interested in promoting active dialogue between striking unionists and employers. In reply to a question on an unconditional conference between the Pastoralists' Association and the Central District labour unions in the Queensland Parliament on 27 February 1891, McIlwraith demanded that unions accept the employers' principle of 'freedom of contract' before any conferences or mediation could take place. McIlwraith's intransigence toward striking unionists is nowhere better evidenced than in his response to a letter from Albert Hinchcliffe, secretary of the Australian Labour Federation.

Hinchcliffe wrote to McIlwraith on 3 March 1891 seeking a break-through in talks between employers and unionists.

We are not breaking the law. Those who introduced armed labourers from other colonies, and those who threaten under the name of the law to disperse with ball cartridge men who the police authorities know are not breaking the law, are the breakers.....Disarm the free labourers; disarm the capitalists; leave the police alone to maintain the law which has not been broken.....Free labourers and capitalists make a practice of going about armed. Suppose we went about armed? Try to forget that you are a member of the Employers' Association and answer us as a public official.⁴²³

The reply never came. McIlwraith did not have the courtesy to reply to a genuine request from Hinchcliffe for conciliation and arbitration. It is difficult to believe that his silence was meaningless and that he was not on the side of those employers who worked to crush those who led the unions to strike.

McIlwraith's Queensland counterpart, Samuel Griffith, Attorney-General from 1876 to 1879, Premier between 1883-1888 and Constitution-maker (1891), was even more strident in his criticisms of the position of the unions. Although he was sometimes considered a liberal, both politically and socially, the industrial turmoil in the Queensland pastoral industry revealed him as of the camp of the defenders of bourgeois society. His actions in utilising the draconian and ancient laws associated

⁴²³ Ibid, p 80. The communication between Hinchcliffe and McIlwraith clearly indicates the distance that had developed between unionists and employers once the industrial confrontations had begun 'in earnest'.

with the Masters and Servants Act against the striking unionists in the pastoral regions of Queensland undermined any view that Griffith was an enlightened liberal who tolerated unions and workers' rights.⁴²⁴ Griffith also called out the guns and the troops against striking miners and shearers. Griffith cabled instructions to his parliamentary colleagues to carry out these instructions while attending the 1891 Convention.⁴²⁵ Griffith's efforts are all the more notable because he is accepted by many constitutional historians as being the architect of the constitution that was written in 1891, one that forms the nucleus of today's constitution.⁴²⁶

Australia's first Prime Minister, Edmund Barton (present at both sets of Conventions) acting-Premier in Dibbs' absence during 1891, was also influential in the sending in of an extra one hundred police to Broken Hill to quell the striking unionists. Barton instructed the Crown Prosecutor, W H Coffey, to proceed to Broken Hill in the expectation that some of the strike leaders would be arrested for conspiracy. However, Barton's instructions to Coffey were moderation itself: strive to be absolutely even-handed, do not hurry or embarrass the accused, adhere strictly to the common law, accept moderate bail, do not try to resurrect ancient or disused laws used (as Samuel Griffith had done) during the Queensland shearers' strike.⁴²⁷ Although Barton may have advocated moderation during the Broken Hill strikes, his actions placed him on the side of the employers, especially in the eyes of the working classes.

Alfred Deakin was even more striking with regard to the calling out of police to suppress industrial unrest. Deakin made a point of accepting, indeed claiming,

⁴²⁴ Manning Clark (1999) *A History of Australia*, Volume V, pp 70-71. For a contrasting viewpoint see, Kay Saunders, 'A Welsh aristocrat and an Australian liberal', in, David Headon and John Williams (eds) (2000) *Makers of Miracles*.

⁴²⁵ Botsman, Peter (2000) *The Great Constitutional Swindle*, pp 15-16. During the 1880s Griffith was quite socially active, often siding with the workers in issues that were important for their well-being. However, during the 1890s Griffith 'changed sides', siding with employer groups to effectively crush union demands for a voice in Queensland colonial society.

⁴²⁶ Deakin, Alfred (1997) *And Be One People*, p 33. Deakin spoke glowingly of Griffith's efforts in 'single handedly' devising the constitution for the 1891 Convention. Botsman, Peter (2000) *The Great Constitutional Swindle*, p 5. To Botsman, one of the great failings of Australian history is that A I Clark is not recognised as being author of the Australian Constitution.

⁴²⁷ Bolton, Geoffrey (2000) *Edmund Barton: The One Man for the Job*, Allen and Unwin, Sydney, pp 98-9. See these pages for an account of Barton's actions during strike action at the Broken Hill mines.

responsibility for calling out of the militia against striking unionists in Melbourne.⁴²⁸

Although the responsibility for using the troops was the Cabinet's, it fell more on Deakin than on others. As Chief Secretary at the time, he was in ministerial control of the police; and, in the absence from Victoria of the Attorney-General, he was about to be sworn in as Solicitor-General, and was responsible for the legality of the action. When it was stated some years later that he had personally objected to the calling out of the mounted troops, Deakin made it explicitly clear that this was not so. He had been satisfied that the step should be taken, had voted for it in Cabinet, and in the same circumstances would do the same again.⁴²⁹

In fairness to Parkes, Deakin, Barton, Carruthers, Dibbs and others, their actions were based on honest appraisals of the situation in Sydney, Melbourne and other locations, generally reflecting an upsurge in middle-class nervousness and anxiety over the events occurring on the industrial front. The strikes beginning in 1890 were an entirely new and frightening experience for most colonists.⁴³⁰

4.8 Conclusion

The alarm and shock with which the middle class looked upon the industrial chaos during the 1890s, and their subsequent marginalisation of the working classes as a consequence of their struggles for a 'fair go' in Australian colonial life, are well documented. The lack of empathy shown toward striking workers by both the middle-class public and, more importantly, those who were in positions of power in the colonies, indicate that the question uppermost in their minds was how best to preserve the 'natural order' of things, especially in the newly emerging federation. Issues of law and order in particular were very influential on the middle-class mind at the time. The

⁴²⁸ Rickard, John (1976) *Class and Politics*, p 23.

⁴²⁹ La Nauze, John (1965) *Alfred Deakin*, p 128.

⁴³⁰ *Ibid*, pp 127-32. See these pages for an analysis of the actions of the Victorian Parliament during a period of immense anxiety and uncertainty.

actions of several Constitution-makers during the strikes clearly demonstrate their awareness of the power of the working class.

The economic, social and political orders at the time all seemed to be under challenge from a radicalised and militant working class, in the shape of centrally organised and highly militant unions. Mining and industrial unions developed rapidly between 1870 and 1880. During the late-1880s, unskilled men and women became unionised. Although the unions never enlisted a major percentage of all workers, they had been organised within strategic sectors (that is, the shearing, mining and shipping industries) which were essential to a fast growing economy. Employer groups are often portrayed as having been untroubled by the growing union activity, however they *were* watching the growth of unions with increasing concern and set about organising themselves into central groupings. As 1890 approached and economic conditions tightened, especially across Eastern Australia, the employers sought to take back the initiative in what became a class-based battle between capital and labour.

As expected, most of the industrial activity took place on the wharves of Melbourne and Sydney, the mines of Broken Hill and the pastoral regions of Queensland and New South Wales, the powerhouses of the burgeoning capitalist economy. The confrontations between employers and unions in Melbourne and Sydney effectively swung middle-class sympathies away from the workers to the forces of capital. While analysts disagree as to whether employers and the state colluded to defeat the forces of labour, this issue is a significant point of divergence between anti-Deakinite and Deakinite approaches to the confrontations.⁴³¹ The central question seems to be one

⁴³¹ Anti-Deakinites and Deakinites diverged sharply over this issue. For example, Gollan, Robin (1966) *Radical and Working Class Politics*; Markey; Ray (1988) *The Making of the Labor Party in New South Wales: 1880-1900*; Fitzpatrick, Brian (1944) *A Short History of the Australian Labor Movement*; Buckley Ted and Ken Wheelwright (1988) *No Paradise For Workers*; Rickard, John (1976) *Class and Politics*, all believe that collusion between the state and employer groups during the Great Strikes of 1890-94 effectively destroyed the power of the union movement, something it did not regain until the early years of the twentieth century. They also claim that those Constitution-makers who were directly involved in the industrial confrontations would have found it very difficult to 'rise above' the events happening around them as they set about devising the Australian Constitution in 1891. Indexes in these texts are extensive on these events. Conversely, Deakinite authors give scant coverage to the Great Strikes and the influence they had on the Constitution-makers and constitution-making. For example see: de Garis, Brian (1974) '1890-1900', in Crowley, Frank (1974) (ed) *A*

of whether those who venerate the constitution can ignore the industrial turmoil. The belief that several influential Constitution-makers took part in enforcing the wishes of the employers, suggests that this cannot and should not be ignored.

The 1890-94 period was a time when the forces of labour and capital tested the respective strength of the other in what appeared to be a major clash of wills. Often seen to be a clash over the employers' principle of 'freedom of contract' and the unionised policy of the 'closed shop', the strikes were about more than just these two ideas or principles. Again, the economic, political and social bases of colonial society seemed to be at stake. The strikes also witnessed the use of draconian and very repressive legislation in the quelling and then gaoling of striking unionists and their leaders. The Coercion Acts and Masters and Servants Acts utilised by the authorities were often more severe than those used by their British counterparts. The use of these measures was disastrous in the eyes of the working classes, particularly when middle-class men spoke of faith in the rule of law, an equitable and fair society, and a democratic and liberal constitution.

The 1890s saw the closure of a successful period of labour history; unions were crushed and lost much of the broad-based social support they had prior to 1891. Control over working conditions, wage rates and industrial power now rested with employers. The period 1890-94, in particular, also marked the beginning of the consolidation of class dominance in Australia, something many people in the colonies had supposedly worked against since 1788. It is difficult to deny that Australia at this point in time had not become a strongly class-based society. It is also difficult believing that the Constitution-makers could have remained detached from the industrial mayhem fomenting around them as they set about their work in 1891 and again in

New History of Australia; Irving, Helen (1997) *To Constitute a Nation*; Birrell, Bob (2001) *Federation: The Secret Story*; Chesterman, John and Brian Galligan (eds) (1999) *Defining Australian Citizenship*; Hirst, John (2000) *The Sentimental Nation*; La Nauze, John (1972) *The Making of the Australian Constitution*, and Quick, John and Robert Garran (1900) *The Annotated Constitution of the Australian Commonwealth*.

1897-98. Too many of them had been intimately involved to remain unaffected. How this would have affected their decision-making remains an open question.

Chapter 5 – Middle-Class Men

5.1 *Introduction*

Although much has been written about the Australian Constitution, much less has been written about the men who wrote it. Many Australians today would find difficulty in naming our first Prime Minister, let alone other of the Constitution-makers. The men (as previously noted, no women were directly involved in writing the constitution) who contributed their time and energies, often at personal and financial loss, have largely been forgotten. Unfortunately, Australians only meet the Constitution-makers in the academy, when reading scholarly books and articles, or in some other chance meeting. The hopes, aspirations and ideals of these men are rarely investigated. Similarly, the methods of choosing or appointing delegates to the Conventions and the implications these might have had on the outcomes are also rarely considered.

Unlike the 1891 Convention where delegates were appointed by colonial parliaments, the direct election of delegates by voters in Tasmania, New South Wales, Victoria and South Australia to the 1897-98 Conventions was a radical and unique approach, compounded in its democratic aspect by submitting results of these Conventions directly to the people for their final decision. In Western Australia, which had only achieved self-government in 1890, the Parliament chose delegates to both sets of Conventions. The access and eligibility of future delegates to the Conventions of 1897-98 depended on the colonies' own electoral laws. Who the Constitution-makers were, what they hoped to achieve, and how representative of their colonies they were are rarely considered. The Constitution-makers have often been characterised as a group of middle-class, white, Protestant, bearded, male British émigré political hacks and there can be no doubt that they did not represent all sections of Australian society.

The purpose of this chapter is to analyse the delegates chosen by the four colonies, plus the Western Australians appointed by their Parliament. From this, an attempt will be made to distil the 'essential' Constitution-maker.⁴³² The chapter is divided into eight sections, beginning with *Delegates' Attendance at Conferences, Conventions and Meetings*. This section traces the men who attended inter-colonial meetings and conferences leading up to the abortive 1891 Convention, and those who rekindled interest in federation prior to the Conventions of 1897-98. There was a remarkable stability of colonial governments during the 1890s, with many of the same colonial politicians attending Imperial Conferences in London, Federal Councils in Australia and the Conventions of 1891 and 1897-98. A short section entitled *Results of Referenda* is an analysis of colonial voting patterns for the referenda on the Constitution Bill that were held in 1898 and 1899. *Gender, Ethnicity and Birthplace* identifies the country of birth of the delegates to both sets of Conventions.

Delegates and Public Office looks at the public lives of the delegates to both sets of Conventions. Most notably, all but one delegate to both sets of Conventions had been a politician. *Vocational Interests* identifies that 85% of the Constitution-makers were lawyers, pastoralists, businessmen or financiers – that is, all professional men.

Trenwith was the only delegate who could claim a working-class background, entering the Victorian Parliament as a unionist in 1889. By 1897 however, he could be called a professional politician. The section entitled *Religious Background* shows that almost all of the Constitution-makers held religious beliefs and that the majority of these were Protestants, with four Catholics and two Jews also involved.

Education was largely the preserve of the middle class during the nineteenth century, although some working-class youth may have received an elementary education.

Education and Family further develops the idea that the Constitution-makers – as

⁴³² This is important for any understanding of the people 'behind' Australia's Constitution. Background may not determine ideological position but the two are related.

consequence of their educational levels – were all middle-class men. While in John La Nauze's view, few delegates had particular advantages of birth and some had been unskilled labourers in their youth, none of the Constitution-makers could be described in 1891 or 1897-98 as a workingman. All were *Middle-class Men*.⁴³³ The story begins with the fledgling federation movement in 1883.

5.2 Delegates' Attendance at Conferences, Conventions and Meetings

A striking feature of the history of the federation movement is the continuity of its participants. Many of the same men attended the various conferences, meetings and conventions that led up to federation in 1901. Stability of colonial governments during the 1890s is part of the explanation for this. Charles Kingston in South Australia, George Reid in New South Wales, George Turner in Victoria and John Forrest in Western Australia, were not only successful and long-serving Premiers, but also influential and active members of the federation movement.

A total of twenty three men attended one or more of the following: the Australasian Inter-Colonial Conference of 1883; the seven sessions of the Federal Council of Australia between 1886 and 1897; the Convention of 1891; and the Hobart Premiers' Conference of 1895. Many of these same men were among the forty six at the Sydney Convention of 1891 when the first draft constitution was written. Of the fifty delegates who attended the 1897-98 Conventions, seventeen of them had attended the Convention of 1891. Several had already attended inter-colonial conferences on a range of matters in previous years, and nearly half of all delegates to this set of Conventions had been involved since 1883 in meetings where federation was on the agenda.⁴³⁴

⁴³³ La Nauze, J. A. (1972) *The Making of the Australian Constitution*, p 32. La Nauze writes: 'one point is obvious. They were in a simple material sense, at least "middle class" men. A few might have been judged "gentlemen" by birth on English criteria; a few had been born into wealthy families in Australia'. None of them, however, could be labelled workingmen.

⁴³⁴ Bannon, John (2000) 'The gathering of tribunes and oligarchs, in Patricia Clarke (ed) *Steps to Federation: Lectures Marking the Centenary of Federation*, Australian Scholarly Publishing, Melbourne, p 74.

As will be discussed at length later in the chapter, all but one of those who attended the federation conferences and conventions from 1883 onwards were politicians. Many of these same men were also active members of the Australian Natives Association (ANA), the Imperial Federation League (IFL) and other federation leagues, all supposedly responsible for bringing federation back into the popular realm. Pre-eminent in the Deakinite account of federation is the Corowa Federation Conference (unofficial), held between 31 July and 1 August 1893, a meeting of delegates from the IFL and the ANA at which Quick proposed popular election of delegates to future Constitutional Conventions. This meeting heralded the 'popular' movement for federation (in the Deakinite myth).⁴³⁵

How popular the federation movement was at the time remains a contentious issue.⁴³⁶

A Premiers' Conference held in Hobart during 1895, at the behest of George Reid, was notable in that it accepted Quick's proposal for a popular referendum for selection of delegates to future Conventions.⁴³⁷ The Bathurst People's (unofficial) Federal Convention, 16-21 November 1896, was another important milestone to Deakinites,

⁴³⁵ Hirst, John (2000) *The Sentimental Nation*, pp 121-3. At this gathering of federalists and other federalist sympathisers, federation became the will of the people, not the politicians, after John Quick proposed the popular election of delegates to future Constitutional Conventions.

⁴³⁶ Birrell, Bob (2001) *Federation: The Secret Story*, p 108. Birrell claims that by 1890 branches of the ANA across Victoria had mushroomed to number one hundred. Goldmining towns like Ballarat and Bendigo and numerous other rural centres had active memberships. Melbourne branches were undeniably the most powerful and influential, located across both working-class and middle-class suburbs. According to Birrell, the occupational diversity can be illustrated by the following list of the occupations of new members of the Collingwood branch in 1893: Clerk, telegraph messenger, body-maker, reporter, butcher (2), salesman (3), carter, grocer (2) postman, hatter (2), hairdresser, blacksmith, boot-maker (2) and baker. For Prahran (a branch begun in 1878, with Deakin as a foundation member and leader) the list covers all those enrolled during 1893. Occupations included tram-conductor (2), grocer (2), surveyor, clerk (5), law clerk, newsagent, warehouseman, blacksmith (2), signalman (4), gripman, accountant, civil servant (9), watchmaker, carter (2), letter carrier, painter, electrician, stationer (3), salesman, baker, compositor, dairy producer, publisher, florist, carrier, agent, railway employee, railway porter, cellarman, jeweller, labourer, carpenter and constable. For an opposing analysis see Davidson, Alistair (1991) *The Invisible State: The Formation of the Australian State 1788-1901*, Cambridge University Press, Melbourne, p 233 To Alistair Davidson, the popular movement was composed almost exclusively of ANA members, with the majority of them being middle-class, commercial and professional men. Of the one hundred and twenty six leaders, fifty five were professional and seventy three had business interests. Of the latter 53% had commercial interests; 47.9% were in farming or allied pursuits and 32.8% were in banking. The leaders of the Australian Federation League went to great lengths to present it as a popular movement. Some, like Edmund Barton, did this in full awareness that there was a very general suspicion that the movement was entirely a movement of 'conservatives'. What Birrell fails to mention is that the ANA was largely a Victorian entity, the colony most strongly pro-federation. Deakinites would also have us believe that along with the ANA, organisations like the IFL, largely emanating from the efforts of Edmund Barton in New South Wales, catapulted federation and the constitution into the popular imagination. Despite the growth of these organisations, it was not until the late-1890s when activists in all colonies had managed to put federation back on the political agenda, that it could be labelled a (somewhat) popular movement.

⁴³⁷ Crisp, L. F. (1990) *Federation Fathers*, p 12. Although George Reid is pilloried by Deakinites, it was largely through his efforts that the federation movement regained momentum after 1895. Reid supported and addressed the Bathurst Conference to rally popular support for federation. He also spread the federation message when travelling in colonies other than New South Wales. It is a 'little rich' John Hirst claiming that when Reid became Premier of New South Wales in 1894 that the cause of federation was in the hands of the man who set out to wreck it any time after 1891. See Hirst, John (2000) *The Sentimental Nation*, p 123.

because it broached the issue of the equitable distribution of 'surplus' revenue from a Commonwealth Government (Quick was again a central player in this Convention). Moreover, the people of Bathurst had aspirations for their city to become the federal capital and were only too happy to host a meeting of federalist zealots.⁴³⁸ An analysis of some of the more influential delegates to the various conferences and conventions follows.

The Conference of 1883 was a meeting of delegates from all the Australasian colonies (Australia, New Zealand and Fiji) to consider the annexation of New Guinea and neighbouring Pacific Islands, along with discussions on the federation of the colonies. Membership at the various federation conferences and conventions was restricted to influential colonial politicians. John Downer, South Australian member of the trio who wrote the constitution for the Conventions of 1897-98, attended the Sydney Conference of 1883 and the 1891 Convention. Accompanying Downer at the 1883 Conference was Graham Berry, long-serving, radical Victorian Premier who had directly challenged the power of the Legislative Council during the 1870 and 1880s. Berry was also a delegate to the 1897-98 Conventions. Nicholas Brown, Tasmanian Member of Parliament since 1875 was also present at the 1883 Conference in Sydney, attended the seven sessions of the Federal Council, and was a delegate to both the 1891 and 1897-98 Conventions.

Often criticised as being little more than a suburban solicitor, George Turner, long-serving Victorian Premier with an astute financial brain, attended all sessions of the Federal Council, the Hobart Premiers' Conference in 1895, and the Conventions of

⁴³⁸ Hirst, John (2000) *The Sentimental Nation*, p 138. Prior to the Bathurst Convention invitations were sent across Australia to local government bodies, federation leagues, branches of the Australian Natives Association, trade unions, and democratic associations. Although republicans and socialists were obviously part of the people, the organisers of the Bathurst Convention went to great lengths to ensure that those with 'unhelpful' views on federation were in a minority.

1897-98.⁴³⁹ Alfred Deakin, elected to the Victorian Legislative Assembly in 1879 at the age of twenty six, attended all Federal Council meetings, the Federation Conference of 1890 and both sets of Conventions in 1891 and 1897-98. James Service (1883), Duncan Gillies (1890 and 1891) and Henry Wrixon (1891) were other Victorian Premiers who attended various federal conferences and Conventions. The Victorian delegates represented the most pro-federation colony.⁴⁴⁰

Although many Western Australians may have had misgivings about federation, John Forrest, John Hackett and James Lee-Steere attended all sessions of the Federal Council, along with the 1891 and 1897-98 Conventions. Lee-Steere also represented his colony at the Federation Conference of 1890. Forrest, long-serving Premier during the 1890s, also attended the 1895 Hobart Premiers' Conference. William Loton also attended both the 1891 and 1897-98 Conventions. Hackett gained some notoriety at the 1891 Convention, when he said that 'either responsible government will kill federation , or federation in the form in which we shall, I hope, be prepared to accept it, will kill responsible government'.⁴⁴¹

Charles Kingston of South Australia, a staunch advocate of the Federal Council, attended all its meetings and the 1891 Convention and was President of the 1897-98 Conventions. Kingston also represented South Australia at the 1895 Hobart Premiers' Conference.⁴⁴² John Cockburn, another South Australian, was a medical doctor turned politician who also attended the 1890 Conference, and the Conventions of 1891 and 1897-98. Regarded as one of the most radical delegates, Cockburn claimed that government was most democratic when it was closest to the people. Consequently, he supported the broadest suffrage, with votes for women and no property qualifications

⁴³⁹ Deakin, Alfred (1995) *And Be One People*, pp 67-8. To Deakin, Turner was the ideal bourgeois who had married early and who was in dress, manner and habits exactly on the same level as the shopkeepers and prosperous artisans who were his ratepayers and constituents.

⁴⁴⁰ Irving, Helen (1999) (ed) *The Centenary Companion to Australian Federation*, Cambridge University Press, Melbourne, p 221. Victorians voted resoundingly in favour of the Constitution Bill in 1898 and again in 1899.

⁴⁴¹ La Nauze, J. A. (1972) *The Making of the Australian Constitution*, p 41.

⁴⁴² Bannon, John (2000) 'The gathering of tribunes and oligarchs', pp 74-5.

for all elections to the Commonwealth Parliament. He also argued for the preservation of the right to vote for Indigenous Australians.⁴⁴³ Richard Baker (1891 and 1897-98) and Thomas Playford (1890 and 1891) were other influential South Australian delegates.

Of the Tasmanians, Edward Braddon, Philip Fysh, Adye Douglas, Henry Dobson and Neil Lewis attended meetings of the Federal Council and the Conventions of 1891 and 1897-98. Braddon also attended the Hobart Premiers' Conference in 1895. A I Clark, the Tasmanian (and true author of the constitution) also attended the 1890 Conference and the 1891 Convention but for undisclosed personal reasons chose not to nominate for the 1897-98 Conventions.⁴⁴⁴ As has already been noted, Clark did not vote for the Constitution Bill, fearful that the financial distribution of powers would not be favourable to Tasmania.⁴⁴⁵

Samuel Griffith, John Macrossan, Thomas McIlwraith and Andrew Thynne were some of the more notable Queenslanders to attend the Convention of 1891. The wise old sage, John Macrossan of Queensland, attended the Federation Conference of 1890 with Samuel Griffith. Although he attended the 1891 Convention, he died midway through it.⁴⁴⁶ With great prescience, Macrossan accurately predicted both that the constitution would be very difficult to amend and that the Senate would become a parties' House rather than a states' House.⁴⁴⁷ As noted elsewhere, Queenslanders did not attend the 1897-98 Conventions.

⁴⁴³ Irving, Helen (1999) (ed) *The Centenary Companion to Australian Federation*, p 346.

⁴⁴⁴ Botsman, Peter (2000) *The Great Constitutional Swindle*, p 5. Botsman believes A I Clark has become the forgotten man of constitution-making although the draft constitution he took to the 1891 Convention forms the basis of the Australian Constitution.

⁴⁴⁵ *Ibid*, pp 30-1. Clark's constitution was based on a new world of optimism and hope, but it is notable that Clark abstained from voting in 1898 because of what he saw as the Constitution Bill's continuing imperfections.

⁴⁴⁶ La Nauze, J. A. (1972) *The Making of the Australian Constitution*, p 44. Macrossan died on 31 March 1891, midway through the first true federation convention.

⁴⁴⁷ Irving, Helen (1999) (ed) *The Centenary Companion to Australian Federation*, p 397.

Griffith's association with the federation movement began when he attended a conference in Sydney in 1883 which 'fathered' the Federal Council of Australasia. He was also present at a Conference in Melbourne in 1890 which was the precursor to the 1891 Federal Convention.⁴⁴⁸ Due to his legal and constitutional expertise, Griffith became the 'unofficial' leader at the 1891 Convention.⁴⁴⁹ Whether as barrister, Chief Justice, Premier or legal and constitutional expert, Griffith was a highly influential figure in colonial public life.⁴⁵⁰ On his appointment to the position of Chief Justice of Queensland in 1893, Griffith was unable to attend further federation conventions. His influence, however, was still considerable, as many consulted him on legal and other issues pertaining to federation and the constitution. For Deakinites, Griffith was the architect of the constitution.

George Dibbs, New South Wales Premier 1885, 1889 and 1891-94, also attended both the 1883 Conference and the 1891 Convention.⁴⁵¹ Henry Parkes, New South Wales Premier variously between 1872 and 1890, had seemingly revived federation with a famous speech at Tenterfield in 1889, a rural town in northern New South Wales.⁴⁵² This led to the convening of a Federation Conference in Melbourne, 1890. Parkes duly attended the Melbourne Conference of 1890 and was elected President of the 1891 Convention. Whether the mantle of Father of Federation is a fitting one for Parkes remains a matter of conjecture.⁴⁵³ Parkes' New South Wales parliamentary colleague, William McMillan, attended the 1890 Conference and the Conventions of 1891 and 1897-98.

⁴⁴⁸ Crisp, L F (1990) *Federation Fathers*, pp 376-80.

⁴⁴⁹ La Nauze, J. A. (1972) *The Making of the Australian Constitution*, Chapters 4 and 5. The coverage that Griffith receives in both of these chapters is illuminating. To those unfamiliar with the story of constitution-making, one could be convinced that Griffith was the Leader of the 1891 Convention, not Henry Parkes.

⁴⁵⁰ Saunders, Kay (2000) 'A Welsh aristocrat and an Australian liberal', p 42.

⁴⁵¹ Bannon, John (2000) 'The gathering of tribunes and oligarchs', p 74. Also in, Crisp, L F (1990) *Federation Fathers*, pp 376-80.

⁴⁵² This claim seems, to me, to be a central plank in the Deakinite myth. How influential Parkes' speech was on reinvigorating the federation movement is yet another contentious issue.

⁴⁵³ La Nauze, J A (1972) *The Making of the Australian Constitution*, p 13. The fact that historians still argue about Parkes is some evidence that simple verdicts on his motives and career are suspect.

George Reid, New South Wales Premier from 1894 to 1899, attended the 1895 Hobart Premiers' Conference and the Conventions of 1897-98. It was through Reid's efforts at Hobart in 1895 that federation became a part of the popular imagination, when he endorsed Quick's ideas on popular election of delegates to future Conventions.

Australia's first Prime Minister, Edmund Barton was a driving force behind the federation movement. A tireless and selfless worker for the federation cause, it was largely through his efforts that federation remained on the horizon during the early to mid-1890s. Barton attended the 1891 Convention and was Leader of the Conventions of 1897-98.

Table 1: Delegates' Attendance at Significant Federation Meetings and Conventions Prior to the Federal Conventions of 1897-98 ⁴⁵⁴

	Inter-Colonial Conference Sydney 1883	Federal Council 1886-97+	Conference on Federation Melbourne 1890	First Federal Convention Sydney 1891	Premiers' Conference Hobart 1895
NSW					
Barton				x	
Reid					x
McMillan			x	x	
Abbot				x	
VIC					
Turner		x			x
Deakin		x	x	x	
Berry	x				
SA					
Kingston		x		x	x
Cockburn			x	x	
Baker				x	
Gordon				x	
Downer	x			x	
TAS					
Braddon		x			x
Fysh		x		x	
Brown	x	x		x	
Douglas		x		x	
Moore				x	
Dobson		x			
Lewis		x			
QLD					
Griffith	x	x	x	x	
Garrick	x				
Macrossan	x		x	x	
Dickson					x
WA					
Forrest		x		x	x
Lee Steere		x	x	x	
Hackett		x		x	
Loton				x	
Total	6	13	6	19	6

⁴⁵⁴ Bannon, John (2000) 'The gathering of tribunes and oligarchs', p 89.

5.3 *Results of Referenda*

Delegates left Melbourne in March of 1898 having devised a constitution for the Australian people. The constitution was now referred to the electors in all colonies except Queensland during 1899. Despite majorities voting in favour in Victoria, South Australia, Western Australia and Tasmania, the first referendum failed to gain the required 80,000-vote majority in New South Wales. A 'secret' Premiers' Conference was then convened in Melbourne in January of 1899 at which George Reid again fought for a more liberal and democratic constitution. This meeting was notable for the acceptance by the colonial Premiers – six of whom were present – of several amendments to the Draft Constitution urged by the New South Wales Parliament and by the Queenslanders.⁴⁵⁵

The Premiers agreed at this meeting that a new Enabling Bill suggesting that a second referendum be held should be put to all Colonial Parliaments – this time on the 1899 Bill as amended at the Hobart meeting.⁴⁵⁶ After the successful carriage of the second referendum in New South Wales on 20 June 1899 (See Table 4.2), six months of discussion, debate and deliberation between colonial representatives and British authorities took place. During mid-1900, the British Parliament passed an Act entitled, *The Commonwealth of Australia Constitution Act*. At long last and with great rejoicing, the Australian nation came into being on 1 January 1901.

⁴⁵⁵ Ibid, pp 239-47. See these pages for the intrigues that followed the failure of the referendum in New South Wales in 1898-99, eventually leading to a meeting of Colonial Premiers' in Hobart 1899, to rectify issues that would lead to a successful vote by the people of New South Wales.

⁴⁵⁶ Crisp, L F (1990) *Federation Fathers*, p 397. Five colonies voted on and accepted the Enabling Bill between April and September 1899, but Western Australia did not proceed with the Bill at this time.

Table 2: Commonwealth of Australia Constitution Bill Referenda Results 1898-1900 ⁴⁵⁷

<u>Colony</u>	<u>Enrolled Voters</u>		<u>Voted 1898</u>		<u>Voted 1899</u>	
Vic	254,155	(1897)	<u>122,619</u>		<u>162,458</u>	
			Yes	100,520	Yes	152,653
SA*	137,781	(1896)	<u>53,120</u>		<u>83,043</u>	
	152,393	(1899)	Yes	35,800	Yes	65,990
			No	17,320	No	17,053
Tas	30,335	(1897)	<u>14,513</u>		<u>14,228</u>	
	39,002	(1899)	Yes	11,797	Yes	13,437
			No	2,716	No	791
NSW	302,000	(1898)	<u>137,823</u>		<u>190,161</u>	
			Yes	71,595	Yes	107,420
			No	66,228	No	82,741
Qld	97,046	(1899)	<i>No Poll</i>		<u>69,484</u>	
					Yes	38,488
					No	30,996
WA**	23,318	(1897)	<i>No Poll</i>		<i>Voted 1900</i>	
			<i>1898 or 1899</i>			<u>64,491</u>
					Yes	44,800
					No	19,691

* SA: Women voting from 1894

** WA: Some women voting from 1899

5.4 Gender, Ethnicity and Birthplace

No women participated in the Conventions of 1891 or 1897-98. All the delegates were men. Not unexpectedly, several delegates to both sets of Conventions were not Australian-born. Of the forty two Australian delegates to the 1891 Convention, seventeen were born in Australia, twenty four were born in the British Isles, and one was born on the Isle of Man. All of the Australian-born delegates were of British lineage. Although most of the non-Australian-born delegates had spent the major part of their adult life – twenty, thirty and up to fifty years in Parkes' case – in Australia, more than half those who attended the 1891 Convention were not native-born Australians.⁴⁵⁸

⁴⁵⁷ Crisp, L F (1990) *Federation Fathers*, pp 388-89.

⁴⁵⁸ See, J A. La Nauze (1972) *The Making of the Australian Constitution*, pp 328-33, for brief profiles of Convention delegates; and L F Crisp (1990) *Federation Fathers*, pp 376-81, for Conventions attended by delegates.

Australian-born delegates to the 1897-98 Conventions predominated, but only just, as twenty six were born in Australia and twenty-four were born overseas. If we add the men who had arrived in Australia before the age of twelve - Taylor of Western Australia (an Australian of seven years duration), M J Clarke from Tasmania (an Australian for nine years) and Clarke's colleague, Adye Douglas (a Tasmanian for fifty eight years) – the total number of Australian-born delegates is twenty-nine. None beside Clarke and Taylor had arrived in Australia later than 1878, unless Bernhard Wise is counted; Wise had left Sydney as a child after his father's death in 1865, and returned in 1883, after an education at Rugby and Oxford. Birthplaces other than Australia or Great Britain included Fraser (Canada), Henry (Shetland Islands) and William Moore (the Isle of Man).⁴⁵⁹

When looking at the birthplace of delegates to both sets of Conventions, it is plausible to believe that all of them would have been familiar with British cultural, political and social traditions. Although they proudly claimed their Australianness and their independence from Britain, many Constitution-makers still regarded Britain as the mother country and as Australia's guardian and protector.⁴⁶⁰ British influences permeated the Australian colonies at every level during the 1890s. How such things would have influenced the delegates' thinking on approaches to democracy, citizenship and constitution-making remains a contentious issue.⁴⁶¹

⁴⁵⁹ La Nauze (1972) *The Making of the Australian Constitution*, p 104.

⁴⁶⁰ Irving, Helen (1997) *To Constitute a Nation*, p 27. Well before the constitution was shaped, the community it would represent had to be imagined. It had to be a community distinct from, even separable from Britain. London had long been the imaginative centre for the majority of Australia's white population, and England was 'Home'. As Henry Parkes uttered at the Conference of 1890: 'Make yourself a united people and appear before the world as one and the dream of going "home" would die away. We should create an Australian home. We should have "home" within our own shores'.

⁴⁶¹ La Nauze (1972) *The Making of the Australian Constitution*, p 32. Interestingly, La Nauze believes that no great significance can be attached to the professions or occupations of the Constitution-makers. He mentions little or nothing of the issues, events or characteristics of the delegates that might have influenced the way they voted.

Table 3: Year of Birth of Delegates attending Federal Conventions of 1897-98 ⁴⁶²

	<i>NSW</i>	<i>Vic</i>	<i>SA</i>	<i>Tas</i>	<i>WA</i>	<i>Total</i>
1815-19				1		1
1820-24		1		1		2
1825-29				1		1
1830-34	1	2		2	1	7
1835-39			1	2	1	5
1840-44	3		2	1	3	12
1845-49	2	1	1		3	9
1850-54	2	3	5		1	11
1855-59	2	2	1	1	2	8
1860-64		1		1	2	4
1865-69					1	1

Table 4: Convention Members by Country of Birth ⁴⁶³***First Convention, 1891 (omitting New Zealand delegation)***

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>SA</i>	<i>WA</i>	<i>Tas</i>	<i>Total</i>	<i>%</i>
Australia	4	1	2	4	3	3	17	40.5
England	1	1	-	1	3	4	10	23.8
Scotland	-	2	2	2	-	-	6	14.3
Ireland	2	3	2	-	1	-	8	19.0
Wales	-	-	1	-	-	-	1	2.4
Total	7	7	7	7	7	7	42	100.0

Second Convention, 1897-98

	<i>NSW</i>	<i>Vic</i>	<i>Qld</i>	<i>SA</i>	<i>WA</i>	<i>Tas</i>	<i>Total</i>	<i>%</i>
Australia	7	5		5	6	3	26	52
England	-	3		-	3	5	11	22
Scotland	2	-		4	-	1	7	14
Ireland	1	1		1	1	1	5	10
Canada	-	1		-	-	-	1	2
Total	10	10		10	10	10	50	100

⁴⁶² Bannon, John (2000) 'The gathering of tribunes and oligarchs', p 89.⁴⁶³ Bannon, John (2000) 'The gathering of tribunes and oligarchs', p90. This is an adaptation of John Bannon's table.

5.5 Delegates and Public Office

Although leadership of the federation movement had passed from Parkes to Barton between 1891 and 1897, as noted, the continuity of delegates to the Conventions is striking.⁴⁶⁴ Despite this continuity, some transformations had occurred between 1891 and 1897. Whereas delegates to the Sydney Convention of 1891 were all appointed by their respective parliaments, four fifths of the delegates to the 1897-98 Conventions were popularly elected by the voting public. Parliamentarians in Western Australia, however, again appointed delegates to these Conventions. As noted, Queenslanders chose to stay at home for reasons of their own.

The delegates of 1891 had an average of fifteen years parliamentary experience between them and included six current Premiers –Parkes (New South Wales), James Munro (Victoria), Forrest (Western Australia), Griffith (Queensland), Playford (South Australia) and Fysh (Tasmania). Nine ex-premiers attended the 1891 and 1897-98 Conventions . Delegates attending the Conventions of 1897-98 had an average twelve years parliamentary experience and included five current Premiers –Reid of New South Wales, Forrest of Western Australia, Kingston of South Australia, Braddon of Tasmania and Turner of Victoria. Of those attending both sets of Conventions, only one delegate did not have previous parliamentary experience.

James Walker of New South Wales, a delegate to the 1897-98 Conventions, was altogether outside politics. A former bank manager, Walker retired to administer the large estate of a philanthropic cousin. As La Nauze comments, Walker had written and lectured a great deal on the question of federal finance; and his election was one of the few examples of public recognition of a man who appeared to be simply an expert in a relevant field, since most of the abler lawyers could equally have been selected as

⁴⁶⁴ Crisp, L F (1990) *Federation Fathers*, pp 376-81. Seventeen delegates attended both the 1891 and 1897-98 Conventions.

well-known politicians or prominent federalists.⁴⁶⁵ Surprisingly, Walker served on the judiciary committee during these Conventions, not the finance committee.

It must be noted that during the 1890s public office was still very much the preserve of middle-class men. Although payment of parliamentary members had been established in Victoria in 1871 and introduced in other colonies thereafter, most working-class men could simply not afford to participate in public life. The advent of payments to parliamentarians had given some working-class representatives the opportunity to stand for election during the late 1880s and early 1890s. Despite this boon for colonial labour parties, working-class men had enormous psychological barriers to overcome before they entered colonial parliaments. As noted, politics during the early 1890s was still very much a middle-class pastime, requiring middle-class manners, a middle-class education and at least a middle-class occupation to support it.⁴⁶⁶ What is more, until the bitter strikes of the 1890s working-class people had placed their faith in liberal-minded parliamentarians like Deakin, Higgins and Kingston to protect their interests.⁴⁶⁷

Although Labor had become a political force during the 1890s it also had to overcome middle-class critics. Many members of the middle class (and some members of the working class) believed that Labor men were not adequately equipped for the task of governing. In particular, they believed that Labor Party men harboured middle-class pretensions and would abandon their working-class constituents upon election.⁴⁶⁸ And more importantly, the middle class feared that working-class politicians would lead colonial societies down a path of radical socialism, or legislate into being other such fanciful socialistic ideas. As John Rickard notes:

⁴⁶⁵ Ibid, p 101.

⁴⁶⁶ Rickard, John (1976) *Class and Politics*, p 259.

⁴⁶⁷ Ibid, p 33-4.

⁴⁶⁸ Ibid, p 272. According to Rickard, any legislative institution encourages a certain sense of unreality: it is very easy – and tempting – for its members to see themselves as an elite, self-evidently superior to the people they govern. There are two contrasting aspects of the entry of workingmen into parliament. Viewed from a working-class perspective there was the creeping respectability that threatened to dull the edges of the labour member. Whether he lived “luxuriously” or not, entry into parliament necessarily meant adopting many of the forms of middle-class life. There was always the danger that the very *point* of labour representation would be lost. This suspicion contributed to the tensions that had already developed between the trade unions and the parliamentary parties.

Before the arrival of the Labor Party, colonial parliaments were meeting places for three broad, but by no means discrete, categories of politicians: the professional men, usually lawyers, for who politics had always been a natural outlet; those, such as pastoralists, merchants or manufacturers, who entered parliament largely to defend or further the interests of their class; and those, usually of lower social rank for whom politics was a means of advancing their personal careers, in terms of money, influence or power. For all their differences of background most belonged to the middle-class, even if some had entered it as self-made men.⁴⁶⁹

Table 5: Delegates' Backgrounds of Public Office ⁴⁷⁰

Parliamentary and Ministerial Office	1891	1987-98
MLA or MHA	27	31
MLC	6	8
ML or HA and LC (at different times):	13	14
Minister (prior to Convention):	39	36
Premier (prior to Convention):	15	12
None of the above	0	1

5.6 Vocational Interests

What is striking when analysing the vocational interests of the Constitution-makers is the high proportion of lawyers, pastoralists and merchants (as distinct from farmers and industrialists who came to the fore later in federal parties), and the almost complete absence of trade unionists, wage-earners and small shopkeepers, who were appearing in colonial politics in significant numbers, and were to take the centre of the Commonwealth stage a decade later. To Fin Crisp, this last contrast is the most significant – there was an outstanding difference between the group of men who made the Constitution and those who were soon to operate it.⁴⁷¹

It appears that the vocational make-up of the delegates was such that men of one ilk made the Constitution yet, a decade on, men of a completely different vocational background were attempting to operate within its framework. This fact will become more apparent once the vocational interests and experiences of the delegates to both sets of Conventions are examined. Not surprisingly, Deakinites are dismissive of these

⁴⁶⁹ Rickard, John (1976) *Class and Politics*, pp 87-88.

⁴⁷⁰ Crisp, L F (1990) *Federation Fathers*, p 383.

⁴⁷¹ Crisp, L F (1974) *Australian National Government*, p 11.

facts, believing the Constitution-makers devised a constitution for the good of all Australians amid an atmosphere of altruism and selflessness.⁴⁷²

As noted, the parliaments in the various colonies appointed delegates to the 1891 Convention. Fifteen were lawyers, representing about 35% of all delegates. Twenty four lawyers were subsequently elected or appointed to the 1897-98 Conventions, representing almost 50% of all those present at these Conventions. That the Conventions of the 1890s appear to have been 'lawyers conventions' is difficult to deny. Nonetheless, the task of writing a constitution for the new Australian nation was likely to have rested with those conversant with constitutional and legal issues: the lawyers. Whether criticism of the lawyers and their role they played in constitution-making is valid, lawyers were undoubtedly the most influential group at both sets of Conventions. An overview of the activities of several of the more influential lawyers prior to, and during, the Conventions, attests to this.

Alfred Clark and Samuel Griffith were two of the most prominent lawyers to attend the Convention of 1891. Clark entered the Tasmanian Parliament as a Member of the House of Assembly in 1878, had served as Attorney-General and was appointed a judge of the Tasmanian Supreme Court in 1898. He was a political reformer who, during the 1890s, actively promoted federation.⁴⁷³ An ardent republican and democrat, Clark had a portrait of the Italian reformer, Mazzini, in every room of his Hobart house. He had travelled to the USA in the 1880s, had studied its constitutional workings at great length and believed that, with some modifications and additions, it could be a suitable guide for an Australian Constitution.⁴⁷⁴ For reasons that remain obscure, Clark did not stand for election to the Conventions of 1897-98. He attempted, unsuccessfully, to persuade the Convention of 1897 to adopt an equal rights provision

⁴⁷² La Nauze, John (1972) *The Making of the Australian Constitution*, p 32.

⁴⁷³ Irving, Helen (1999) (ed) *The Centenary Companion to Australian Federation*, p 345.

⁴⁷⁴ Williams, John (2000) 'Andrew Inglis Clark: The Republican of Tasmania', in Headon, David and John Williams (eds) *Makers of Miracles: The Cast of the Federation Story*, pp 44-55. See these pages for a short biographical overview of Clark and his impact at the 1891 Convention.

(based on the Fourteenth Amendment of the American Constitution) in the constitution. By 1899 Clark no longer supported federation and voted against it in the referendum of 1899.⁴⁷⁵

Samuel Griffith also only attended the 1891 Convention. After graduating from the University of Sydney in 1865, Griffith practised law and became a member of the Queensland Legislative Assembly in 1872.⁴⁷⁶ Originally regarded as an advanced liberal, he was Attorney-General 1876-79, and Premier 1883-88 and again between 1890-93. He became Chief Justice in 1893. In this role, he showed great ability, among other things, codifying Queensland's laws. Griffith was one of the architects of the Federal Council and represented his colony at the 1883 Inter-Colonial Convention in London. Although Parkes is acknowledged as having been the 'physical' leader of the 1891 Convention, Griffith is widely recognised as being its 'intellectual' leader.⁴⁷⁷

Griffith is also recognised by many as having been the author of the draft constitution which emanated from it.⁴⁷⁸ Because of his withdrawal from politics in 1893, Griffith did not directly participate in the Conventions of 1897-98. However, he was consulted by Barton, Richard Baker and others during these Conventions. Griffith did not approve of the provision in the constitution that restricted appeals to the Privy Council. In early 1900, while the Constitution Bill was before the British Parliament, he used his right of access as Lieutenant Governor (a position he acquired by virtue of his being Chief Justice) to intrigue with the Colonial Office behind the backs of the Australian delegation.⁴⁷⁹ He was successful in his endeavours and an Australian litigant's last court of appeal was the Privy Council.

⁴⁷⁵ Irving, Helen (1999) (ed) *The Centenary Companion to Australian Federation*, p 345.

⁴⁷⁶ Joyce, Roger (1984) *Samuel Walker Griffith*, University of Queensland Press, St Lucia, Queensland, p 25. Although Griffith had embarked on a legal career in 1866, there was always a strong possibility, especially considering his expressed interests, that he would become involved in politics. With his initial legal training set among a group of lawyers that included Supreme Court Judges and District Court Judges, many of whom had experience in politics, it was highly likely that Griffith would follow suit. See Gordon, Max (1963) *Sir Isaac Isaacs: A Life of Service*, Heineman, Melbourne, for further analyses of Isaac Isaacs.

⁴⁷⁷ Irving, Helen (1999) (ed) *The Centenary Companion to Australian Federation*, p 345.

⁴⁷⁸ Botsman, Peter (2000) *The Great Constitutional Swindle*, p 5.

⁴⁷⁹ Irving, Helen (1999) (ed) *The Centenary Companion to Australian Federation*, pp 377-8.

Charles Kingston, child of the Adelaide establishment, participated in every meeting on federation from 1887 until 1900, with the exception of the 1890 Federation Conference. Admitted to the Bar in 1873 and made a Queen's Counsel in 1889, Kingston entered the South Australian House of Assembly in 1881 and quickly forged a reputation as a gifted legal and statutory draftsman. Kingston also rapidly garnered a reputation as a radical democrat, being taken as a true friend of the working class for all of his life.⁴⁸⁰ He circulated an influential draft constitution prior to the 1891 Convention, became a member of the Drafting Committee and, with Barton and Griffith, was one of the party who spent the Easter weekend of 1891 on the *Lucinda*, preparing the final document. As noted earlier, Kingston believed that the 1891 constitution stalled through lack of popular support, and he advocated the plan put forward at the Corowa Conference for direct election of delegates to the 1897-98 Conventions. He was elected President of the 1897-98 Conventions, something that did not prevent him from pursuing favourite causes like conciliation and arbitration.⁴⁸¹

Australia's first Prime Minister, Edmund Barton, was yet another of the lawyers prominent during the Conventions. After a brilliant career in classics at the University of Sydney⁴⁸², he became a barrister, before entering the New South Wales Parliament. He sat for various seats in the Legislative Assembly between 1879 and 1900, and in the nominee Legislative Council, 1887-91 and 1897-98. A highly regarded Speaker in the Legislative Assembly, Barton served as Attorney-General in George Dibb's ministry in 1889, and again from October 1891 to December 1893. Barton attended both the 1891 and 1897-98 Conventions. Recruited to the Drafting Committee on the *Lucinda* at the last minute, due to A I Clark's illness, he was also elected Leader of the 1897-98 Conventions. Barton was an avowed Ultra-Federalist who at times, almost single-

⁴⁸⁰ Crisp, L F (1990) *Federation Fathers*, pp 274-5

⁴⁸¹ Irving, Helen (1999) (ed) *The Centenary Companion to Australian Federation*, p 389.

⁴⁸² Bolton, Geoffrey (2000) *Edmund Barton*, p 10. In 1868 Barton graduated from the University of Sydney with first-class Honours in Classics and was awarded a special University prize for the substantial sum of twenty pounds (over \$2,000 by the standards of 2000). Two years later, in May 1870, he took a Master of Arts degree, which in those easygoing times was largely a formality, yet an expensive one.

handedly, propelled the federation movement back into the public realm.⁴⁸³ Barton's close friend, Alfred Deakin also attended every federation conference between 1883 and 1900. Deakin's biographical details are spread throughout this thesis, so his training as a lawyer is simply here noted.

Other lawyers at the 1891 Convention included Sir John Downer, a barrister and conservative who was elected to the South Australian Parliament in 1878 and served as South Australian Premier in 1885. Downer was a delegate to the Inter-Colonial Convention in 1883 and was a strong supporter of the Federal Council of Australasia. His chief contribution to federation was as a member, with his close friends Edmund Barton and Richard O'Connor, of the three-man Drafting Committee at the 1897-98 Conventions. Downer, along with Barton, Griffith, Deakin and Turner, was an Ultra-Federalist.⁴⁸⁴

Born in New South Wales, Sir Joseph Abbott, was a pastoralist and solicitor, who entered parliament in 1880. He attended the 1891 Convention, where he acted as Chairman of Committees. He was elected, while Speaker of the Legislative Assembly, to the 1897-98 Conventions, at which he was placed on the Constitutional Committee. A conservative, Abbott advocated restricted powers for the Senate which, he said, represented only 'acres' not 'people'.⁴⁸⁵ Abbott was also a central character in the 'intrigue' over the presidency of the Adelaide Convention in 1897. To the chagrin of conservatives, Kingston won the presidency over Abbott.⁴⁸⁶

South Australian-born Sir Richard Baker (1841) was educated at Eton and Cambridge and admitted to the English Bar. He returned to South Australia in 1864 and was first elected to the South Australian Parliament (House of Assembly) in 1869. Baker was

⁴⁸³ Irving, Helen (1999) (ed) *The Centenary Companion to Australian Federation*, pp 335-6.

⁴⁸⁴ Crisp, L F (1990) *Federation Fathers*, p 130.

⁴⁸⁵ Irving, Helen (1999) (ed) *The Centenary Companion to Australian Federation*, p 328.

⁴⁸⁶ La Nauze, John (1972) *The Making of the Australian Constitution*, pp 105-7.

President of the Legislative Council between 1893-1901 (and was also the first President of the Senate in the Commonwealth Parliament). A South Australian delegate to the 1897-98 Conventions, he was elected Chairman of Committees. He was protective of the rights of the states and the equality of the Senate with the House of Representatives in the impending Commonwealth Parliament. Baker, who produced a *Manual of Reference* in 1891 which outlined and compared federations in other nations, had an important intellectual influence over the shape of the constitution.⁴⁸⁷

Sir Henry Wrixon was born in Ireland in 1839, arrived in Australia with his parents in 1850, returned to Ireland to be educated and finally settled in Victoria in 1863. Wrixon was a barrister and Attorney-General who was appointed to Queen's Counsel and entered the Victorian Parliament in 1868. He attended the Convention of 1891, where he sat on the Judiciary Committee. Wrixon was also a member of the *Lucinda* party. In 1897, the year he became Vice-Chancellor of the University of Melbourne, he stood for election to the 1897-98 Conventions, but narrowly failed to achieve this, coming eleventh in the poll.⁴⁸⁸

Born in 1815, Adye Douglas arrived in Australia in 1839, became a barrister and entered the Tasmanian Parliament in 1855. Douglas served as Premier in 1884. As a Legislative Councillor, he was a Tasmanian delegate to the 1891 Convention, at which he was elected to the Constitutional Committee. He was elected to the Conventions of 1897-98, while President of the (Tasmanian) Legislative Council, and there had the distinction of being the oldest delegate, as well as again being a member of the Constitutional Committee. In debate, Douglas's persistent theme was the need to protect Tasmanians (whom he described as 'not mere saplings' but 'the gum trees of

⁴⁸⁷ Irving, Helen (1999) (ed) *The Centenary Companion to Australian Federation*, p 335.

⁴⁸⁸ *Ibid*, p 436.

Australia') from the domineering intentions of the larger colonies, Victoria in particular.⁴⁸⁹

Sir John Gordon was born in Scotland in 1850 and arrived in Australia in 1859. Gordon trained as a barrister and rose to become Judge of the South Australian Supreme Court in 1903. Appointed to the South Australian Legislative Council in 1888, he served as a Minister prior to becoming a delegate to the 1891 Convention. Gordon was also elected to the Conventions of 1897-98 at which he sat on the Constitutional Committee. Concerned mainly with interstate trade, in particular rivers (especially the Murray) and railways, he successfully advocated the inclusion of the Inter-State Commission in the Constitution, to adjudicate on disputes over these matters and to enforce the Commonwealth's trade and commerce power.⁴⁹⁰

As noted, almost 50% of delegates elected to the 1897-98 Conventions were also lawyers. Bernhard Wise, Australian-born and English-educated, was a barrister who had entered the New South Wales Parliament in 1887, rising quickly to Attorney-General in the Parkes' Ministry. He was an unofficial guest on the *Lucinda* voyage in 1891 and is likely have participated there in discussions about revisions to the 1891 draft constitution. Described by Deakin (among other things) 'as a man of culture and aristocratic tendencies, [who] was a democrat by conviction', Wise was a member of the Judicial Committee at the Conventions he attended. He was an active campaigner for federation and remained in New South Wales politics after federation. Along with Deakin, Wise wrote a first-hand account of federation, *The Making of the Commonwealth of Australia, 1889-1900*.

John Quick had a far less fortunate youth than did Bernhard Wise. Quick's family migrated to the Victorian goldfields in 1854, when he was two years old. From the age

⁴⁸⁹ Ibid, p 357.

⁴⁹⁰ La Nauze, John (1972) *The Making of the Australian Constitution*, pp 329-30.

of ten, Quick worked as a labourer, printer's devil and then as a reporter, work which supported him through a law degree at Melbourne University. From 1880 to 1889 he was Member of the Legislative Assembly for Bendigo. An active Ultra-Federalist, Quick worked tirelessly for federation, within Parliament and through his honorary membership of the Bendigo branch of the Australian Natives Association. As noted (at the Corowa Conference 1893) Quick proposed the popular election of delegates to future constitutional conventions. His ideas were taken up at the 1895 Premiers' Conference and put into practice in elections for the 1897-98 Conventions but did not radically alter the composition of those Conventions. With Robert Garran, Quick wrote *The Annotated Australian Constitution*, still deemed the quintessential text on the federation story.⁴⁹¹

George Turner was another who supported himself through secondary education and a law degree. Though sincere and hardworking, Turner was an unimpressive man of limited ability but his careful nursing of Victoria's finances during the early-1890s proved effective in his becoming involved in the 1897-98 Conventions, particularly with men like Deakin, Higgins, Isaacs and Peacock on his side of the house. Turner's lack of imagination was more than compensated for by these men.⁴⁹² Despite these shortcomings, except for a short time in 1899, Turner remained Premier of Victoria between 1894 and 1901. He topped the Victorian election for the 1897-98 Convention on a strong record of democratic and financial reform. Turner clashed with George Reid over the distribution of tariff revenue, accepting less than ideal outcomes. He was unimpressed with the constitution as finally drafted in 1899 and only supported it after strong pressure was placed on him by his own government and by the *Age* newspaper. In 1901, Turner joined the first Federal Cabinet as Treasurer.

⁴⁹¹ Irving, Helen (1999) (ed) *The Centenary Companion to Australian Federation*, p 413.

⁴⁹² de Garis, Brian (1974) '1890-1900', in Frank Crowley (ed) *A New History of Australia*, p 238.

Described by Alfred Deakin in less than endearing terms⁴⁹³, George Reid was a continuously hard-working public servant and politician for most of his adult life. In 1864 he joined the New South Wales public service as an Assistant Accountant in the Treasury, rapidly progressing to the post of Clerk of Correspondence and Contracts. Never a brilliant scholar, Reid managed to attain a law degree and was admitted to the Bar in 1879. After encouragement from some influential members of Sydney's mercantile community, Reid, along with Edmund Barton and William McMillan, nominated for the seat of East Sydney for the election of 1880. Reid topped the poll and began a political career that would span two decades.⁴⁹⁴ Reid's activities prior to, during and after the Conventions, are covered at length in Chapter 2, and need not be repeated here. Needless to say, the epithet 'Yes-No' Reid has followed his historical legacy in accounts of federation and constitution-making.⁴⁹⁵

Victorian liberals H B Higgins and Isaac Isaacs were both elected to the Conventions of 1897-98. Both attended Melbourne University and gained degrees in law. Higgins was called to the Bar in 1876. Isaacs was accorded this privilege in 1882. By 1894 Higgins was recognised as leader of the Victorian Equity Bar, bringing to public life a keen legal mind matched with a well-grounded radical-liberal political philosophy.⁴⁹⁶ He was elected to the Victorian Legislative Assembly in 1894 and held his seat until 1900.⁴⁹⁷ Isaacs also gained a reputation for his legal competence, knowledge and attention to detail, matters that would serve him well for the rest of his life. He was elected to the Victorian Legislative Assembly in 1892.⁴⁹⁸ Unlike many other Constitution-makers, Higgins and Isaacs had no length of colonial parliamentary service behind them as a basis upon which to identify closely with 'colonial issues'. They could look forward to a national parliament endowed with any amount of power without experiencing any

⁴⁹³ See page 6 of this thesis for Deakin's comments on Reid.

⁴⁹⁴ McMinn, W G (1989) *George Reid*, Melbourne University Press, Melbourne, pp 5-22.

⁴⁹⁵ *Ibid*, Chapter 16.

⁴⁹⁶ Crisp, L F (1990) *Federation Fathers*, p 155.

⁴⁹⁷ *Ibid*, p 155.

⁴⁹⁸ Cowen, Zelman (1967) *Isaac Isaacs*, Oxford University Press, London, p 17.

feeling whatever of betraying colonial institutions for whose performances they had long or jealously shared responsibility.⁴⁹⁹

Given the prominence of the aforementioned men in both the federation movement and the Conventions of 1891 and 1897-98, it is evident that the lawyers would have exerted a significant influence on the federation movement, both inside and outside the Conventions. To political theorist Alistair Davidson, in one sense the Bendigo People's Convention (1896) was the product of the activities of restricted rural and middle-class groups who were led by lawyers to find a more successful way to protect their interests, after they were severely affected by the depression of 1893 and the industrial action at the time. When federation began to appeal to the pocket as well as the heart, the Australian Natives Association, another creation of lawyers, was able to start a network of middle-class supporters of federation and provide a new base for the movement.⁵⁰⁰ Although lawyers may have been central to the leadership of the federation movement, men with commercial, pastoral and financial interests also exerted considerable influence over it.

Although lawyers may have been predominant at both sets of Conventions, two other vocational groups were significant due to their numerical size. Pastoralists and businessmen/financiers both wielded influence largely because of their socio-economic and political positions in colonial society. Fifteen or 35% of delegates who attended the 1891 Convention were businessmen/financiers. By 1897 however, their number had been reduced to 20% of delegates, as only ten businessmen/financiers were appointed or elected to the 1897-98 Conventions.

Sir William McMillan, merchant, Treasurer, Premier and Minister at various times in the parliament of New South Wales, was one of the most prominent

⁴⁹⁹ Crisp, L F (1990) *Federation Fathers*, p 123.

⁵⁰⁰ Davidson, Alistair (1997) *From Subject to Citizen*, p 233.

businessmen/financiers to attend both sets of Conventions. McMillan entered the New South Wales Parliament in 1887. An astute businessman, he was appointed to the position of Treasurer in the fifth Parkes Ministry. He was one of only four men who represented their colony at the 1890 Federation Conference, the 1891 Convention and the Conventions of 1897-98 (Deakin, Cockburn and Lee-Steere were the other three). He was a member of the Finance Committee in 1891 and chaired the same committee in 1897-98.⁵⁰¹

William Moore of Tasmania, timber merchant and prominent landowner, represented his colony at both the 1891 and 1897-98 Conventions. He was elected to the Tasmanian House of Assembly in 1871 and several years later was appointed to the Legislative Council. Another Tasmanian, Sir Philip Fysh, arrived in that colony in 1859. Fysh became a timber merchant and entered the parliament as a Legislative Councillor in 1866. He later transferred to the House of Assembly and was elected Premier in 1877 and again in 1891. He attended both sets of Conventions but did not play a prominent part in their proceedings.⁵⁰²

Conversely, Sir George Dibbs was a prominent merchant and businessman who played a leading role at the Convention of 1891. Dibbs was a member of the New South Wales Legislative Assembly from 1874-77 and again from 1882-95. He was Premier in 1885, 1889 and again 1891-94. Dibbs was a practical man of business and, at times, a pretty tough operator. He gained much of his commercial experience (as partner) with his brother John, some with his father-in-law and some in ventures of his own. The range of his training and experience included importing and exporting, shipping, merchandising in wine, coal and general cargoes, sugar-refining and distilling.

⁵⁰¹ Irving, Helen (1999) (ed) *The Centenary Companion to Australian Federation*, p 397.

⁵⁰² La Nauze, John (1972) *The Making of the Australian Constitution*, p 331.

Business took him as far afield as Britain and Asia. It took him also to Valparaiso and Santiago in Chile. To reach these destinations Dibbs had to persuade the ship's master and crew to 'run the blockade' of the Spanish fleet under cover of night. Like so many other colonials, Dibbs and his brother John experienced the swings and lurches of the nineteenth-century colonial trade cycle and they suffered bankruptcy on account of a bank failure in 1867. To their credit, they traded themselves completely out of debt, repaying all debtors in full in 1875. By the time he entered parliament at forty years of age, Dibbs' commercial and banking experience was probably far superior to most of his fellow parliamentarians.⁵⁰³

Sir Thomas McIlwraith was Queensland Premier and Colonial Treasurer in 1879-82, 1888 and again in 1893. He was also Treasurer in the coalition ministry of his old foe Samuel Griffith, between 1890 and 1893. McIlwraith represented Queensland at the 1891 Convention. An entrepreneur with business interests in mining, commercial speculations and banking, he was in voluntary London exile after 1895 because of his involvement in dubious banking, mining and land transactions.⁵⁰⁴ Sir Alexander Peacock of Victoria was the manager of several mining companies and Government Minister during 1889. He and the previously mentioned J T Walker, the New South Wales non-parliamentarian chosen purely for his business acumen, were other businessmen to attend the Conventions of 1897-98.

Pastoralists had held positions of significance in colonial society, largely because of their material wealth and access to overseas and local capital. And it was their material wealth more than anything else that gave them their voting power and ability to dominate colonial Legislative Councils. Politically conservative, they were a group who had challenged and often impeded democratic change in colonial society. Pastoralists could be found among the Western Australian delegates, who were led by the explorer,

⁵⁰³ Crisp, L F (1990) *Federal Fathers*, p 54.

⁵⁰⁴ La Nauze, John (1972) *The Making of the Australian Constitution*, p 397.

pastoralist, Surveyor-General (1883-90) and Premier 1890-1901, John Forrest. Forrest became the first Premier of Western Australia when self-government was granted in 1890, leading the colony through a decade of political and economic stability. He led his colony with distinction, at both sets of Conventions, fighting hard for fair terms for the fledgling Western Australian colony.⁵⁰⁵ Forrest's brother Alexander, also a pastoralist, explorer and surveyor, and Legislative Councillor in the Parliament of Western Australia, was a delegate to the 1891 Convention, although he is alleged to have contributed little to it.⁵⁰⁶

Other pastoralists included William Suttor, Nicholas Brown, Sir William Lyne and Sir William Zeal. Suttor of New South Wales was a diffident member of a well-known pastoral family and government leader of the Legislative Council from 1875. Suttor only attended the 1891 Convention.⁵⁰⁷ Nicholas Brown, a delegate to the both sets of Conventions, was elected a member of the Tasmanian House of Assembly from 1875 and was appointed Attorney-General in 1897.⁵⁰⁸ Sir William Lyne, a wealthy grazier, entered the New South Wales in 1880. A delegate to the 1897-98 Conventions, Lyne was a prominent anti-Billite in the referendum campaigns of 1898 and 1899. In September 1899 he became Premier of the senior colony and was chosen by Lord Hopetoun to become Australia's first Prime Minister. Unable to persuade interstate Ultra-Federalists to serve under him, he relinquished the post to Edmund Barton.⁵⁰⁹ Sir William Zeal, President of the Legislative Council in the Victorian Parliament, 1864-1901, was another influential, conservative voice at the Conventions of 1897-98.⁵¹⁰

⁵⁰⁵ Ibid, pp 372-3. For an in-depth analysis of John Forrest see Crowley, Frank (2000) *Big John Forrest 1847-1918: A Founding Father of the Commonwealth of Australia*, University of Western Australia Press, Perth.

⁵⁰⁶ Irving, Helen (1999) (ed) *The Centenary Companion to Australian Federation*, p 372.

⁵⁰⁷ Ibid, p 427.

⁵⁰⁸ Ibid, p 341.

⁵⁰⁹ Ibid, p 396. Hopetoun's appointment of Lyne (rather than Barton) to the Prime Ministership of the new Australian nation has become known as the Hopetoun Blunder. See also: Irving, Helen (1997) *To Constitute a Nation*, p 5.

⁵¹⁰ Ibid, p 436.

Those who had pursued several other vocations added a little variety to the Constitution-makers though did little to change the middle-class nature of the participants. John Cockburn, medical doctor, was elected to the South Australian House of Assembly in 1884 and became Premier in 1889. A liberal and democrat, Cockburn was one of five South Australian delegates to attend both sets of Conventions. Graham Berry, radical liberal and Victorian Premier of Victoria during the 1870s, and Edward Braddon, Tasmanian Premier 1887, could best be described as professional politicians. Both attended the 1897-98 Conventions. William Burgess, Tasmania delegate to the 1891 Convention was a shopkeeper, while William Holder, South Australian delegate in 1897-98, was a minister of religion.⁵¹¹

The only Constitution-maker with a working-class background was William Trenwith. Trenwith was born in Tasmania to convict parents and at seven years of age was working with his father as a boot-maker. Ironically, at the time of the Conventions of 1897-98, political labour was denying his right to represent workers. Trenwith had long served the labour movement as a union official, Trades Hall President and, from 1889, a Labor Member of the Victorian Legislative Assembly, working closely with the Liberal Government. In 1896, the United Labor Party denounced him for disloyalty to the party platform. When he spoke at the Conventions he was taken to be a spokesman for the working class. A democrat, Trenwith was not satisfied with the final shape of the constitution, was going to vote against it, but was persuaded by Deakin to support it.⁵¹²

The suggestion here is not that these vocational groups constituted cohesive forces but that the atmosphere of the Conventions was pervaded by middle-class values. Lawyers, pastoralists and businessmen/financiers comprised some 85% of delegates to both sets of Conventions. That they voted according to vocational groupings simply reflects the fact that other issues were of far greater importance to them. Delegates

⁵¹¹ La Nauze, John (1972) *The Making of the Australian Constitution*, pp 328-33.

⁵¹² Irving, Helen (1999) (ed) *The Centenary Companion to Australian Federation*, p 430.

from the smaller states, South Australia, Tasmania, Queensland (1891) and Western Australia were likely to vote for their state's (colony's) rights against the perceived bullying of the larger states, Victoria and New South Wales. Victoria and New South Wales were also found to vote as a state bloc if they believed their interests were being challenged – witness the issue of protection versus free trade and the acrimonious debate over economic policy. The point is not that the delegates were united, it is that they were to a man members of the middle class.

Indeed, the most puzzling aspect of representation at the Conventions was the absence of a working-class voice at a time when Labor was winning significant parliamentary representation in Victoria, South Australia and New South Wales. Labor made the mistake of fielding candidates solely from within its own ranks and was unsuccessful in gaining representation at either sets of Conventions.⁵¹³ Labor's radical political program included commitment to a popularly elected lower house, no senate or upper house of parliament, a broader suffrage and a democratic constitution based on liberal principles.⁵¹⁴ The absence of working-class representation at the Conventions meant that the working-class voice was but a whisper at a time of profound social, political and economic change throughout the colonies.

⁵¹³ Irving, Helen (1999) (ed) *The Centenary Companion to Australian Federation*, pp 65-6, 151-2, 254-7. In South Australia, New South Wales and Victoria, the labour movement ran 'tickets' of ten of its own men in elections for delegates to the 1897-98 Conventions.

⁵¹⁴ La Nauze, John (1972) *The Making of the Australian Constitution*, p 95. When Labor men discussed federation (although most were opposed to it) they looked to provisions in a constitution for some of the following: one-man, one vote, a uniform federal franchise, the abolition of privilege and wealth as precursors to the franchise and equal powers for both houses of parliament.

Table 6: Vocational Backgrounds of Delegates ⁵¹⁵

	1891	1897-98
Lawyers	15	24
Pastoralists	5	8
Businessmen / Financiers / Merchants	16	10
Journalists	1	1
Medical Doctor	1	1
School Teacher	0	1
Minister of Religion	1	0
Trade Unionist	0	1
Professional Politician	1	2
Farmer	1	2
Shopkeeper	1	0

5.7 Religious Background

While religion has less salience in Australian society and is clearly delineated from politics, it was still a force to be reckoned with at all levels of society during the 1890s. It would be reasonable to expect that all delegates either believed in a God or had well-formulated opinions on religious issues. For example, Deakin kept a personal diary covering a lifetime of conversations with his personal God. Although not a 'mainstream' Protestant he held a highly developed, yet mystical relationship with God that was central to his public and private lives.⁵¹⁶ The inclusion of God in the Australian Constitution was not a 'big ticket item' for any of the Constitution-makers, although religion probably held a central place in the hearts and minds of many colonists.⁵¹⁷ Nonetheless, it appears that societal pressure seems to have been the motivating factor for this inclusion, as delegates received numerous petitions from a number of influential organisations, demanding that God be included in the Constitution. A

⁵¹⁵ Crisp, L F (1990) *Federation Fathers*, p 382.

⁵¹⁶ Gabay, AI (1992) *The Mystical Life of Alfred Deakin*. See pages 24-5, 27, 44 of this thesis for further comments on Deakin's religious and philosophical ideas.

⁵¹⁷ La Nauze, John (1972) *The Making of the Australian Constitution*, pp 238-9. Although those at the Melbourne Convention realised that religion needed to be treated circumspectly, God had been written into the preamble to the constitution, largely because it was likely to gain votes for federation.

reading of Quick and Garran's *The Annotated Constitution of the Australian Commonwealth* confirms this.⁵¹⁸

Among the delegates, God could be a Protestant, a Catholic, or Jewish. Some were agnostics, while others called themselves Spiritualists, as did Deakin. Vaiben Solomon of South Australia was the son of a successful merchant who had newspaper and general business interests of his own and had represented the affairs of the Northern Territory in the Legislative Assembly in Adelaide; he was of the Jewish faith, as was Isaac Isaacs. Isaacs' father had been born and raised a Jew in Russian Poland, migrated to London as a youth, and later married a daughter of an influential London family. (Isaacs was born in Melbourne in 1855.)

Four Catholics attended the Conventions. Richard O'Connor, close friend of Barton, member of the New South Wales Legislative Council and respected lawyer, was one of the three member Drafting Committee at the 1897 Convention.⁵¹⁹ Patrick Glynn of South Australia, an Irish lawyer, well read in English literature and the classics, eloquent in an incomprehensible brogue and one prepared to do his homework in preparation for the 1897-98 Conventions, was another.⁵²⁰ Michael Clarke of Tasmania, a witty Irish lawyer and able platform advocate of federation who had only recently entered politics, and William Crowder of Western Australia, were the remaining Catholics.⁵²¹ All other delegates nominated Protestantism as their faith.⁵²²

⁵¹⁸ Quick, John and Robert Garran (1900) *The Annotated Constitution of the Australian Commonwealth*, pp 204-5. At the Adelaide Convention (1897) there was a widespread feeling that the constitution ought to contain some recognition of the Deity. Numerous petitions had been received from various religious bodies. Patrick Glynn (South Australian delegate) proposed to insert in the Preamble a declaration that the people 'invoking Divine Providence' had agreed to form a Federal Commonwealth. Others believed some people would be offended by such inclusions and God was voted out of the constitution. However, God was inserted in the constitution during the Melbourne Convention of 1898.

⁵¹⁹ Deakin, Alfred (1995) *And Be One People*, p 81.

⁵²⁰ La Nauze, John (1972) *The Making of the Australian Constitution*, pp 103.

⁵²¹ *Ibid*, p 103.

⁵²² *Ibid*, pp 101-3.

Table 7: Religion of Delegates ⁵²³

	Agnostic	Anglican	Presbyt	Method.	Congreg	Tot. Prot.	Cath	Jewish
NSW	1	5	2	1		8	1	
VIC	4	3		1	1	5		1
SA	1	4	2	1		7	1	1
TAS	1	6			2	8	1	
WA		11				11	1	
TOTAL	7	29	4	3	3	39	4	2

5.8 Education and Family

The differences and similarities between Constitution-makers has been well illustrated in the previous sections. What this section reveals is the privileged nature of the majority of the delegates to each set of Conventions. Three had been trade apprentices, twenty five held tertiary qualifications, and forty six had completed secondary education, often at private colleges or grammar schools. At least one of the native-born delegates, Richard Baker, had completed his university degree in Britain. Whether voters purposely elected well-educated delegates to represent their interests is a moot point. What is clear is that advantageous family backgrounds and high levels of education were something the majority of delegates had in common.

The family backgrounds of the New South Wales delegates were the most privileged of all the colonies. Three came from professional families, two were the sons of ministers of religion, one was the son of a landowner and two were the sons of wine and spirit merchants. Born in Tasmania, William Lyne's family had migrated to New South Wales during the 1870s. Although his father was a farmer, he had become a prominent citizen through membership of the Tasmanian House of Assembly. More importantly, he was able to provide his son with private tuition and later a college education. All the New South Wales delegation had undertaken secondary studies at

⁵²³ Bannon, John (2000) 'The gathering of tribunes and oligarchs', p 90.

private colleges or grammar schools and five had graduated from university. Of the university qualified, Bernhard Wise had graduated from Rugby and Queen's College, Oxford. Edmund Barton, Richard O'Connor, George Reid and Joseph Abbott had attained degrees from University of Sydney. William McMillan had attended college in Dublin, with Victorian delegate H B Higgins.⁵²⁴

In origin the Victorians were the least privileged, five of their number (more than twice that of any other delegation) were sons of tradesmen. Two were farmers' sons, one was the son of a minister of religion and two were sons of merchants. Despite their poorer background, the educational attainment was quite high. Seven of them went to high ranking grammar schools, and four (Higgins, Deakin, Isaacs and Quick) had achieved tertiary qualifications at the University of Melbourne. As previously noted, John Quick had been forced to leave school, at the age of ten, to work as a labourer after the early death of his father, but took up studies as a mature age student and was admitted to the Bar after graduating in law at the age of twenty six.⁵²⁵

Like New South Wales, the background of the South Australian delegates was genteel, or at least, well-off. Three came from professional families, one was son of a minister of religion, two were sons of merchants, two had a farming background and two were sons of tradesmen. Josiah Symon's father was cabinetmaker and John Downer's a tailor. Both fathers were able to provide their sons with a good education, however, as both obtained law degrees from the University of Adelaide. Charles Kingston, delegate to both sets of Conventions, had done likewise. Nine delegates had undertaken secondary education and six had obtained tertiary qualifications or admission to the Bar. Wise's education was obtained at Oxford and Rugby, while Richard Baker could boast of Eton and Cambridge. (Like his Western Australian counterpart, John

⁵²⁴ Bannon, John (2000) 'The gathering of tribunes and oligarchs', pp 75-84. See these pages for an overview of the education and 'family lives' of some of the delegates to the Conventions of 1891 and 1897-98.

⁵²⁵ Ibid, p 78.

Hackett), Patrick Glynn was a graduate of Trinity College, Dublin. John Cockburn, a medical doctor, had graduated from the University of London.⁵²⁶

The popular election of delegates was never contemplated in John Forrest's colony (Western Australia). Forrest believed that attendance at the Conventions was an exercise in futility, as his colony had only achieved self-government in 1890. The discovery of gold at Kalgoorlie in the mid-1890s, however, radically increased the population of Western Australia, while changing the demography. The family background of the delegates included the sons of public servants, merchants, farmers and pastoralists, publicans, boot-makers, butchers and the son of a minister of religion (Hackett). John Forrest was of humble background, born in Bunbury to a Scottish emigrant farmer who came to the colony as a servant. Ten delegates had undertaken secondary education and four had tertiary qualifications. Hackett, although a lawyer, was editor of the *West Australian* newspaper. Robert Sholl's family ran the pearling industry in Broome. Henry Briggs was a popular and successful headmaster. And the Forrest brothers, John and Alexander, were both surveyors and pastoralists. The Leake and Lee Steere families were both intermarried, representing the 'old money' in the colony.⁵²⁷

The Tasmanian delegation was the one with the oldest representative at either of the Conventions – Adye Douglas, who was born in 1815, the year of Waterloo. It also contained the highest number of émigrés as seven of them were born overseas. Family background included two sons of solicitors (Edward Braddon and Henry Dobson), a sea captain (Adye Douglas' grandfather was an Admiral in the British Navy), and the Keeper of the Government Bond Store (Nicholas Brown). The sons of three merchants and two tradesmen made up the balance of the Tasmanian

⁵²⁶ Ibid, p 79.

⁵²⁷ Ibid, pp 83-4. See also Hunt, Lyall (ed) (2000) *Towards Federation: Why Western Australia Joined Australian Federation in 1901*, Royal Western Australian Historical Society (Inc), Perth. Hunt's book presents reasonably in-depth analyses of John Forrest and the other Western Australians who attended the various Conventions. It also presents some ideas on the idiosyncrasies and peculiarities of the Western Australian approaches to federation.

delegation. The education levels were high for the time. All ten had attended secondary schools, with two of them attending the prestigious Hutchins School. Six (the same number as South Australia) went on to tertiary levels, with Neil Lewis also attending Oxford.⁵²⁸

Education, in particular a formal education during the latter decades of the nineteenth century, was still the preserve of middle-class men (possibly a few middle-class women also). Although some working-class men had been fortunate enough to gain an elementary education, their struggles to gain public recognition were enormous. Despite working-class men having gained access to colonial parliaments, by 1891 they had had little chance to educate themselves and confidently challenge their middle-class counterparts in the role of nation-builders. Such things were the preserve of middle-class men.

Table 8: Education Levels of Delegates ⁵²⁹

	Secondary	Tertiary	Trade Apprenticeship
NSW	10	5	
VIC	7	4	2
SA	9	6	1
TAS	10	6	
WA	10	4	
TOTAL	46	25	3

5.9 Conclusion

In distilling the essential Constitution-maker, several aspects of their make-up become evident. Initially, the Constitution-maker would have been a man, as no women were elected or appointed to either sets of Conventions. The essential Constitution-maker was a Protestant as only six of the delegates claimed other religious faiths.

Additionally, fifty percent of the delegates were qualified lawyers, with half of these possessing overseas qualifications. This meant that there was a strong chance that

⁵²⁸ Ibid, pp 81-2.

⁵²⁹ Bannon, John (2000) 'The gathering of tribunes and oligarchs', p 90.

the essential Constitution-maker's vocational interests would have resided in the law. With pastoralists and businessmen also comprising thirty five percent of the delegates, what can be assured is that the essential Constitution-maker would have been a professional man.

Although many Australians hold the belief that they and their forbears have always lived within a classless and egalitarianism society, one imbued with mateship and equality, the essential Constitution-maker possessed the educational qualifications of a middle-class man. With education of any type largely the preserve of the middle classes at the time, the fact that all but three of the delegates were either tertiary educated, or had completed secondary education at a private college or grammar school, bears this view out. Notably, there was no working-class representation at either set of Conventions, as no working-class candidates had been elected or appointed.

Importantly, there was a fifty percent chance the essential Constitution-maker was born overseas. How such things would have influenced men whose characters and habits of mind had been largely shaped in another social, political and economic milieu, is rarely considered. Of greater consequence to the Convention's outcomes was how these differences would have affected the internal politics of the Conventions, particularly when many of the Constitution-makers were strangers at the outset. Such things would have tested not only the workings of the Conventions but also the patience and forbearance of the various leaders, as they sought to arrive at meaningful and successful outcomes from debates and discussions. That they were all middle-class men would, however, have been a great advantage for the Convention leaders.

Although the men who attended the Constitutional Conventions during the 1890s may have come from differing vocational backgrounds, claimed different birthplaces and

held a variety of religious beliefs, one point is obvious: they were, in a simple material sense, at least middle-class men. By English criteria a few may have been judged to be gentlemen. Others had been born into wealthy families in Australia. Although most of them had no special advantages of birth, and some had been simple unskilled labourers in their youth, none would have been described in 1891, or during 1897-98, as a workingman. Whatever their personal origins, they were by habits and income at least middle-class men in their Australian environment; and we know some of them were relatively wealthy. Even Trenwith could be accounted, by this time, a politician rather than a 'workingman'.⁵³⁰

A major reason the Constitution-makers not only survived the trials and tribulations of living in close proximity to each other over lengthy periods, but successfully devised a constitution, was because of what they had most in common: their class-based backgrounds. This gave them a beginning, a starting point for their conversations, dialogue, debates and friendships, all necessary for the successful completion of the tasks that lay ahead. As several of the Constitution-makers had not met prior to the Conventions, any commonality between them would have been of benefit. To succeed in the task they had been sent to complete was difficult enough; to successfully communicate and arrive at a consensus was another thing.

⁵³⁰ La Nauze, John (1972) *The Making of the Australian Constitution*, p 280.

Chapter 6 – Rethinking Compromises and Possibilities

6.1 Introduction

*At any given moment in history there are real alternatives ... How can we “explain what happened and why” if we only look at what happened and never consider the alternatives ... It is only if we place ourselves before the alternatives of the past ... It is only if we live for a moment, as the men of the time lived, in its still fluid context and among its unresolved problems ... that we can draw useful lessons from history.*⁵³¹

A major part of this chapter consists of a consideration of some of the *what ifs* of the federation movement. Some of the alternative possibilities of the decisions made by the Constitution-makers will be explored. If we only accept mainstream accounts of the federation movement, we are ignoring the endless possibilities that could have emanated from it. By ignoring the *what ifs* of this movement, we are effectively shutting out many of the future possibilities for the Australian nation. Some things, however, have already been established.

In the previous chapter the essential Constitution-maker was distilled and found, from whatever perspective they were analysed, to be a middle-class man. Whether a group of middle-class men could write a fair, just and equitable constitution for *all* Australians has been a matter of conjecture since 1901. Some commentators have argued that the constitution has served the Australian people well and needs few if any changes.⁵³² Others have deemed it to be a constitution frozen in time, almost impossible to change and a brake on Australia's development as a nation.⁵³³ Yet others argue that the absence of citizenship from the constitution was the greatest failing of the Constitution-makers.⁵³⁴

⁵³¹ Trevor-Roper, Hugh (2000) 'History and Imagination', cited in, Morris Berman (2000) *The Twilight of American Culture*, W. W. Norton and Company, New York, p 169.

⁵³² See page 31 of this thesis for an extrapolation of these ideas.

⁵³³ Higgins, H B (1900) *The Australian Constitution Bill: Essays and Addresses*, pp 5-37. In great detail, Higgins presents the reasons he voted against the Constitution Bill.

⁵³⁴ Chesterman, John and Brian Galligan (1999) *Defining Australian Citizenship*, p 1. Even Chesterman and Galligan concede that it would have been more helpful had the Constitution-makers identified who the citizen was to be and what their rights and obligations were.

Australian citizenship has been a highly contested issue since federation. Theorists and analysts have argued over whether Australians are subjects or citizens because the Constitution-makers left behind few ideas about the rights, duties and obligations of the citizen. This is surprising given that citizenship was widely discussed at both sets of Conventions.⁵³⁵ The Constitution-makers understood that they were constructing an additional level of government over that which existed in the colonies and that new ideas describing the relationship between the individual, the states and the new Commonwealth Government would have to be developed. Upon further exploration, it becomes obvious that there was enough information and expertise at the Conventions to achieve such an outcome.

As all but one of the Constitution-makers were, or had been, parliamentarians, issues of government and colonial constitutions in operation would not have been foreign to them. Considering that a majority of the delegates to both sets of Conventions were lawyers, the legal and constitutional knowledge available would have been adequate to write a constitution for the Australian nation. That A I Clark and Charles Kingston had taken fully written constitutions to the 1891 Convention, and that Samuel Griffith and his *Lucinda* team could write a constitution during an Easter weekend in 1891 attest to this. Men like Isaac Isaacs, Henry Wrixon, Richard O'Connor, Edmund Barton and Bernhard Wise also possessed the skills necessary to write a constitution.⁵³⁶

What is surprising was the resistance to mildly radical change by delegates at both sets of Conventions. Although colonial societies were rent with industrial conflict, economic disparities, political inequities and other social problems, little was done to rectify these. The inclusion of a majority of the people in the constitution did not appear to be a priority to the Constitution-makers at any of the Conventions. At every turn the

⁵³⁵ Ibid, pp 5-9. See also Mike Salvaris (2000) 'Political Citizenship', p 78-9; Davidson, Alistair (1999) 'The state, democracy and citizenship in Australia', in Roland Axtman (ed) *Balancing Democracy*, Continuum, Cromwell Press, Wiltshire, pp 158-75, and; Davidson, Alistair (1997) *From Subject to Citizen*, p 60.

⁵³⁶ La Nauze (1972) *The Making of the Australian Constitution*, Melbourne University Press, Melbourne, pp 64-5.

conservative element sought to diminish or to exclude. Too often liberals and democrats conceded their positions and their principles to the conservatives. Compromises were necessary, it was claimed, for federation to come about. If these compromises and concessions are re-examined through a different prism several different conclusions can be drawn.

This chapter is divided into four sections, beginning with *Deakinites and the Absence of Citizenship*. Although the Constitution-makers recognised that they were establishing a new system of government (federalism) with the advent of federation, and that a new relationship between the individual and the polity would have to be established, little was done by them to define or describe this relationship. This is surprising given that ideas on the citizen and citizenship were extensively discussed at the Conventions. How successive Deakinites have 'brushed over' the exclusion of citizenship from the constitution is examined in this section.

A second section, *Constitutions and Theorists*, examines the legal and constitutional material that was available to the Constitution-makers. As this section unfolds it becomes obvious that the Constitution-makers had many constitutional models to choose from as they began writing their own in 1891. Several of these had been in operation for centuries. Although described as men of practical politics and pragmatically inclined, some of the Constitution-makers had studied the works of influential legal and constitutional theorists prior to the Conventions of the 1890s. It will be argued in this section that, as they began their work in 1891, there was more than enough literature available to them to successfully write a constitution for *all* Australians.

Rethinking Compromises focuses on the compromises and concessions that were made by the Constitution-makers at the Conventions. Compromise and concession

are often hidden behind claims that if they had not been made, federation would not have materialised. Whether these were made for the greater good, or whether they were politically expedient acts is the central question in this section. *Possible Effects of Citizenship on the Class Structure* is an examination of reasons why the Constitution-makers did not write ideas on the citizen into the constitution. As noted earlier in this chapter, Australian constitutional theorists acknowledge that the absence of citizenship from the constitution has not been helpful. Few, however, dwell upon the question of why the Constitution-makers made this omission. This section is an examination of some of the possibilities that may have eventuated had *all* Australians been granted full citizenship rights.

At end of this chapter it is hoped that the reader will be prompted to re-examine the compromises and concessions that were made by the Constitution-makers along the road to federation. Whether these were justified, or whether they were politically motivated acts, is a contentious issue. How these might have affected middle-class political and material interests is a question rarely asked but one worthy of consideration.

6.2 *Deakinites and the Absence of Citizenship*

As noted elsewhere in this thesis, the Constitution-makers understood that they were creating a new level of relationship between the individual, the states and the new federal government they were bringing into being. A study of the Convention debates reveals that citizenship was extensively discussed at each of the Conventions. Some Constitution-makers wanted an express statement written into the constitution describing what it meant to be a citizen of the new Australian nation. Others argued

that the term citizen was not used in British constitutional terminology and that the position of Australians with respect to their government was that of a subject.⁵³⁷

The final outcome of these debates was Section 117 of the constitution, a drastically reduced substitution for a clause in the 1891 draft constitution which described the citizens of the states in the Australian Commonwealth.⁵³⁸ The significant difference between the constitution that was presented to the Australian people at the referenda of 1898-99 and the 1891 model was that Australians were to be constitutionally recognised as subjects of the British monarch. Deakin's claim that he (and other Ultra-Federalists presumably) were independent Australian-Britons does imply that Australians were keen to remain under the auspices of the British Empire. Subjecthood was the only constitutional relationship available to the Australians in this context. How successive Deakinites have explained away the presence of subjecthood and the absence of citizenship from the constitution is an interesting tale.

In 1961, W K Hancock trumpeted the heroic tale of federation, writing that:

*the prevailing ideology of Australian democracy was the sentiment of justice, the claim of right, the conception of equality, and the appeal to Government as the instrument of self-realisation. Each individual was a citizen, a fragment of the sovereign people; each of them is a subject who claims his rights – the right to work, the right to fair and reasonable conditions of living, the right to be happy – from the State and through the State.*⁵³⁹

Citizens and subjects seem to be interchangeable to the likes of Hancock, yet the terms are polar-opposites. The term citizen emanated from within the republican tradition, while subject describes the political agent in a constitutional monarchy. In later years, John Chesterman and Brian Galligan have referred to Australians as being citizen-subjects.

⁵³⁷ Dutton, David (1999) *Citizenship in Australia: A Guide to Commonwealth Government Records*, National Archives of Australia, p 13.

⁵³⁸ Constitutional Centenary Foundation (2000) *The Australian Constitution (Annotated)*, p 116. Section 117 of the constitution, 'guarantees a subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Crown resident in such other State'.

⁵³⁹ Hancock, W K (1930) *Australia*, Ernest Benn Limited, London, p 72.

Citizenship is at the heart of Australian politics, according to John Chesterman and Brian Galligan. Indeed, for them, the creation of an Australian citizenship was one of the great purposes and achievements of federation in 1901. Australian citizenship has been defined and developed through legislation, administrative practice and public policy by both state and Commonwealth governments in key political, civil, social and economic areas, also they claim.⁵⁴⁰ Although Barton recognised that Australians were subjects in their constitutional relationships and not citizens, Chesterman and Galligan seem to refute his ideas. Instead, they argue that, in the extensive discussions about citizenship at the Conventions, the Constitution-makers finally moved from citizen to subject not because they did not have strong ideas about the new Australian citizenship they were creating but because 'subject' was appropriate constitutional terminology.⁵⁴¹

Furthermore, the relative silence on citizenship issues in the constitution is not evidence of neglect, Chesterman and Galligan claim. It simply reflected a majority preference against putting such matters in the constitution which they neither explain nor *even* examine. The issue was not whether a new Australian citizenship was being created but how this was to be done. The options were to either spell out citizenship in the constitution or to leave its definition and development to continuing state and future Commonwealth parliaments and governments to determine. They chose the latter course. In this representation, Australians have, since colonial times, constructed citizenship in a diffuse and complex way by forging the political, social, economic and legal rights, duties and benefits that most Australians enjoy.⁵⁴²

Helen Irving is another to gloss over the absence of citizenship from the constitution.

As noted in Chapter I, Helen Irving claims that, for Australians, citizenship has been

⁵⁴⁰ Chesterman, John and Brian Galligan (1999) *Defining Australian Citizenship*, pp 1-4.

⁵⁴¹ *Ibid*, p 7. Barton was quite clear in his understanding of the relationship between the political agent in the new Australian nation and the state: 'We are subjects in our constitutional relation with the empire, not citizens. The word subject expresses the relation between the citizens of the empire and the Crown'.

⁵⁴² *Ibid*, p 8.

more of a social construction than a political or legal category, and that this approach has changed little over the last one hundred years.⁵⁴³ Although Australians are recognised as a pragmatic people, whether this lack of a popular discussion of citizenship has served the nation well is arguable. Moreover, as Irving concedes, 'to successive Australians, the notion of citizenship has entailed commitment, belonging, and contribution. It did not begin with a count of rights. Rather, from the idea of citizens as particular types of person, an argument for rights emerged. The claim was the reverse of what we commonly make today: that is, we see the acquisition of rights as a means of becoming a citizen. Last century, people identified as citizens and thus claimed rights. The citizens were, minimally, British subjects, either by birth or naturalisation'.⁵⁴⁴

Although John La Nauze is one of the most insightful and influential historians of Australian constitution-making, he writes very little about the political agent, or their rights, duties and obligations. La Nauze only alludes to the citizen in passing when describing the Convention Debates over what was to become Section 117 of the constitution. His explanation for the rights of the citizen not being constitutionally enshrined is almost as immaterial, as were the Constitution-makers' attempts at defining the political agent for their new nation.

*Why then were Australians denied the constitutional guarantees against deprivation of life, liberty or property without due process of law, and against denial by any State of equal protection of the laws? One reason was undoubtedly that lawyers differed about their implications and confused laymen drew the moral that they were better left alone. They were regarded as unnecessary, if not insulting, in a respectable community living under the rule of law, a view expressed about due process.*⁵⁴⁵

Although these ideas reflect a nineteenth-century confidence that civilised men (or, at least those of British descent) could never have repudiated the civil liberties won by

⁵⁴³ Irving, Helen (1997) *To Constitute a Nation*, pp 156-70. See these pages for an extensive discussion of Irving's ideas on what constitutes citizenship.

⁵⁴⁴ Irving, Helen (1999). *Citizenship before 1949* <http://www.law.unimelb.edu.au/events/citizen/irving.pdf>, p 3.

⁵⁴⁵ La Nauze, John (1972) *The Making of the Australian Constitution*, p 231.

their forebears, at best they reflect a certain naiveté on the part of the Constitution-makers and also on the part of John La Nauze.

Sociologist Bob Birrell is adamant that the people were central to the federation movement. In Birrell's account the people played a central role at every point until the advent of federation in 1901. Without them federation would not have come about. Paradoxically, Birrell concedes that federation today means little to Australians, partly because political symbols have never played a particularly important part in an Australian's sense of identity. Other sources of distinctiveness, including a sense of place and a way of life embodying a unique value system, have helped to give most people a strong sense of being Australian.⁵⁴⁶ Why the Australian people forgot the achievements of their forebears after 1901 is something rarely mentioned by Deakinites.

Birrell also claims that those who possessed intense nationalistic feelings about what it meant to be an Australian drove the federation movement. The civic element in Australian nationalism, particularly that all should be accorded equal status by virtue of their membership of the national community, was to have wide appeal. To Birrell, such things offered a basis for community inclusiveness and for respect for all Australians. This contrasted vividly with the bitter personal memories many workers had of the inferior status they once occupied in the hierarchical British class system. There were to be no *second-class citizens* in Birrell's Australia.⁵⁴⁷

Like Bob Birrell, John Hirst also believes that the people were directly involved in the federation movement from its beginnings in the 1880s. Hirst extols the many Australians who took part in organisations like the Australian Natives Association and the Australian Federation League and in the numerous debating clubs and other

⁵⁴⁶ Birrell, Bob (2001) *Federation: The Secret Story*, p 1.

⁵⁴⁷ *Ibid*, p 16.

associations and societies in which the federal project was discussed. The active participation of the people in the Corowa Conference in 1893, the popular election of representatives to the 1897-98 Conventions and the number of citizens who voted at the referenda of 1898-99, are evidence of this. All are indicative of a high degree of democratic involvement by the people in the events leading up to Federation in 1901, or so Hirst claims.⁵⁴⁸

Although men like Barton, Griffith, Deakin and Clark wanted to federate to build a nation amongst nations, a nation that was the 'fairest and the best' in the world, according to Hirst, being a citizen in the newly federated nation did not become a key element in the Australian identity because higher level ideals concerned thinking Australians at the time.⁵⁴⁹ As Hirst explains, 'the Ultra-Federalists had claimed that the new nation would end the inferiority of colonial status and raise Australia in the world's respect. It was to do so. But for Australians within the empire there were other, more immediate and more satisfying ways to these ends: to beat the English at cricket and to produce good soldiers for the empire's wars. Being a citizen of this new nation did not become a key element in Australian identity; those for whom citizenship was important were more likely to identify as British citizens of the Empire'.⁵⁵⁰

To his credit, Hirst does acknowledge the oddities and the paradoxes present in Australian society:

It has been a society where strong opposition to conscription has existed and caused chasms within it (in 1916, 1917 and again during the 1970s) but where compulsory voting is hailed as a national virtue. Egalitarianism and the belief in a fair go for all has not led to a universal welfare system nor prohibited the growth of private schools and universities. Australian politicians have been held in contempt but governments have largely been competent and efficient. The people have been scornful of British snobbishness but loyal to a British monarch. Moreover, it has been a

⁵⁴⁸ Ibid, p 251. Federation was not an exercise from 'above'. The people had had a direct input into the formation of the new Australian nation since 1889. The debating clubs, organisations like the Australian Natives Association and the Australian Federation League and events like the Corowa and Bathurst people's conventions, are indicative of this, according to Hirst.

⁵⁴⁹ Hirst John (2000) *The Sentimental Nation*, p 247.

⁵⁵⁰ Ibid, p 247.

*society where men have been keen about mateship but have left women to take citizenship seriously.*⁵⁵¹

To me, the stories that successive Deakinites have told about constitution-making are inconsistent and contradictory. They confuse citizen and subjects. They place the people at the centre of the federation movement, yet acknowledge that few Australians are familiar with the constitution. They acknowledge that Australians have rarely engaged with politics and hold their popularly elected politicians in contempt. Further, Deakinites have lionised a pragmatic and practical Australian people who care little for theories and abstract ideas, particularly those like citizenship and the citizen. In sum, Deakinites accept the absence of citizenship despite the fact that the Constitution-makers had more than enough literature on constitutions, federalism and the citizen to write a constitution that included citizenship as they began their work in 1891.

6.3 Constitutions and Theorists

In fairness to the Deakinites, although the delegates to both sets of Conventions had more than enough material to write a constitution, how much they read is another matter. How well informed they were remains a matter of conjecture. Some of the delegates to the 1891 Convention seemed to know little more about federalism than that it was a system of government, exemplified by the American model, in which legislative power was divided between a central government and states or provinces which were originally independent of one another. Others, however (and this must be stressed), were highly conversant with the history and structure of governments in Britain, America, Canada and elsewhere. Those who were lawyers would have been aware of the role which judicial review had played in adapting the American system of federalism of 1787 to the problems of a century of change.⁵⁵² Others had acquainted

⁵⁵¹ Ibid, p 295.

⁵⁵² La Nauze, John (1972) *The Making of the Australian Constitution*, p 272.

themselves with the German and Swiss constitutions and referred to these extensively during the Convention debates.⁵⁵³

The most direct evidence of the reading done prior to the Conventions comes from the references and quotations during the debates, although this is obviously incomplete, for some of those known to be well-read rarely quoted authorities. In some cases we know from other sources that they had at least looked at relevant literature that they did not quote during Convention debates. A glance at some of the categories of the literature quoted, however, does indicate that some serious homework had been done prior to the Conventions. Australian and foreign (mainly British) authors were keenly sought after. Several elementary textbooks, which nearly all the delegates (even the Western Australians) probably had read or at least skimmed, were available to the Constitution-makers.⁵⁵⁴

Richard Baker, South Australian Legislative Councillor, had been an influential and able politician for two decades. One of five South Australians appointed, or elected, to both sets of Conventions, Baker's *Manual of Reference* was indispensable at the 1891 Convention. It provided an extensive analysis of federal systems of government in operation, together with the texts of the American and Canadian constitutions, and other relevant documents. As Chairman of Committees at the 1897-98 Conventions, Baker certainly had a high degree of influence on constitutional outcomes.⁵⁵⁵ Charles Kingston, Baker's South Australian colleague, was also an attendee at both sets of Conventions. He too was an experienced politician and a capable constitutional

⁵⁵³ Botsman, Peter (2000) *The Great Constitutional Swindle*, p 64. Kingston had acquainted himself with the Swiss Constitution when writing his draft constitution for the 1891 Convention. The major innovation in Kingston's draft was the use of the Swiss-style referendum to reject or confirm normal parliamentary legislation. See also La Nauze, John (1972) *The Making of the Australian Constitution*, pp 295-96; Walter, James and Margaret MacLeod (2002) *The Citizen's Bargain: A Documentary History of Australian Views Since 1890*, University of New South Wales Press, Sydney, p 61. Glynn referred to the German example of a common citizenship as one that could be adapted to the Australian context. He recognised its pertinence to the federal system of government he and his colleagues were attempting to devise, one that had to include both the states and the nation.

⁵⁵⁴ La Nauze, John (1972) *The Making of the Australian Constitution*, pp 23, 275. La Nauze indicates that the delegates to the Conventions of 1897-98 were better prepared and more widely read than those who attended the 1891 Convention. This is not surprising given that several of the more influential Constitution-makers attended both sets of Conventions.

⁵⁵⁵ *Ibid*, p 23.

draftsman. Kingston (along with A I Clark) had prepared a draft constitution for the 1891 Convention. Loosely based on the American and Canadian models, its radical departure from Clark's model was the inclusion of Swiss ideas on a system of popular referenda for constitutional change.⁵⁵⁶

A I Clark, Tasmanian Attorney-General, also attended the 1891 Convention. His short text, *Leading Facts Connected With Federation* (which was first published in 1891), was a miscellaneous collection of extracts from constitutional and legal sources. It, too, was very useful to the delegates at the 1891 Convention. Clark, a republican and democrat, was highly conversant with both the Canadian and the American constitutions. Clark favoured the Canadian and American models because both nations were populated by people with similar language, cultural and political traditions to those in Australia. As noted elsewhere in the chapter, Clark brought a fully developed constitution to the 1891 Convention. Often underrated when placed alongside the likes of Barton, Deakin, Griffith and Kingston, Clark was possibly the most able legal and constitutional mind at both sets of Conventions. To some, Clark's model forms the basis of today's Australia's Constitution.⁵⁵⁷

Immediately prior to the Adelaide Convention of 1897, Robert Garran, secretary to George Reid at the 1897-98 Conventions and 'quasi' Constitution-maker, had attained instant fame after publishing his text, *The Coming Commonwealth*. Garran's book traced the intricacies of a federal system of government in operation. It was an important and valuable text for his colleagues and it is worth considering at length. Garran believed that the federal state was a political contrivance intended to reconcile national unity and power with the maintenance of state rights. The system of federal government, Garran claimed, was a compromise between two opposing systems of large and small states, something that would inevitably result in a struggle between the

⁵⁵⁶ Crisp, L F (1990) *Federation Fathers*, p 307.

⁵⁵⁷ Botsman, Peter (2000) *The Great Constitutional Swindle*, pp 28-31. See these pages for an analysis of Clark's contribution to the Australian Constitution.

forces of local powerbrokers and those of a centralising power.⁵⁵⁸ This was certain to be a key issue for those who attended the Conventions of 1897-98.

The fundamental idea in the federal system of government was that of a divided sovereignty. With great prescience, Garran recognised that a major issue at the Conventions would be how to reconcile national unity with local independence. Garran also believed that the central authority must be independent of local authorities, with a concurrent limit to the sphere of central authority.⁵⁵⁹ One of the most complex issues facing the federal system of government was the realisation of a dual citizenship; that is a double allegiance for the citizenry, in which political rights fell into two bundles, those of the nation and the state. Whether Garran understood the difficulties of locating federalism within a constitutional monarchy is difficult to know. By utilising ideas and works that were largely theoretical, along with those etched from practical experiences, it can seem that the Conventions were conducted in a duality of hard-edged reality tempered by idealism and faith in the goodness of humanity.⁵⁶⁰ (Maybe Alfred Deakin was correct in believing that federation was achieved via a series of miracles.⁵⁶¹)

To Garran, there were four great examples of modern federalism: the German, Swiss, Canadian and American models. The American federal republic, based upon the (unwritten) British Constitution, was the obvious model for the Australians to emulate. Although correctly recognising that the American Constitution had been a pioneering and inventive work, Garran reckoned that the original constitutions of the founding colonies of the United States of America were based upon, and copied from (albeit on a small scale) the British Constitution, as they understood it. The American Constitution of 1787 was largely drawn from the British experience, from theorists like

⁵⁵⁸ Garran, Robert (1897) *The Coming Commonwealth: an Australian Handbook of Federal Government*, Angus and Robertson, Sydney, p 15. To Garran, the aim of a federal system of government was to reconcile national unity with local independence. Fundamental to this system of government was the idea of a divided sovereignty in which the central authority must be independent of local authorities, but with limits to its sphere of control.

⁵⁵⁹ *Ibid*, pp 15-20.

⁵⁶⁰ *Ibid*, pp 56-7.

⁵⁶¹ Deakin, Alfred (1995) *And be One People*, p 173.

Montesquieu (the French legal scholar), from the works of the legendary British legal expert Blackstone and from the pragmatic and practical realities of everyday American political life.⁵⁶²

The constitution of the Swiss federation was another with which Garran was conversant. This model did gain favour with some of the Constitution-makers largely because of its system of initiative and referendum for constitutional change. All at the Conventions knew that some method of constitutional change would be necessary if they were to produce a liberal and democratic constitution. To Garran, however, the Swiss judicial system and other European continental types were inferior to the British variant.⁵⁶³ Although the German states had formed into a federal union during 1871, Garran believed theirs too was a flawed variety; one that was not worthy of detailed consideration at the Conventions. However, the economic ideas and rapid industrialisation that had been responsible for German unification would certainly not have gone unnoticed by the Constitution-makers.⁵⁶⁴

The Canadian constitutional model was one that was not suitable for Australian conditions, according to Garran, as it was too restrictive in its powers and had not emanated from the people (it had been written in London by British legal experts and sixteen unelected Canadians).⁵⁶⁵ Garran also held that the Australian colonies must federate under the British Crown and remain a part of the British Imperial Empire. Like other Ultra-Federalists, Garran believed that the Australian Constitution must be written in the form of a British Parliamentary Act and be legislated into being by the British Parliament (as actually transpired). Garran imagined a federal system of government

⁵⁶² Garran, Robert (1897) *The Coming Commonwealth*, p 56.

⁵⁶³ *Ibid*, pp 74-9.

⁵⁶⁴ *Ibid*, pp 96-105. As in many other nation-states that had emerged after 1850, nationalism and a written constitution post-dated German unity. Similarly, in Germany, both military and economic issues were catalysts for national unity. The German experiences must have been of particular interest to the Australian Constitution-makers as they attempted to federate the Australian colonies. This particularly, as the British military administrator, Major-General Bevan Edwards, had reported to the colonial authorities and the British Government during 1887 on the need for an efficient federal defence force in place of the disparate and poorly equipped colonial armies that existed at the time. Furthermore, solutions to the economic issues that confronted the Constitution-makers might also have been found when looking at the German situation.

⁵⁶⁵ *Ibid*, pp 83-7.

for the Australian colonies but excluded the political agent from it. Citizens are mentioned via democratic representation. National suffrage was to be an attribute of national citizenship. Nonetheless, Garran does not spell out who could become a citizen or what their rights, duties and obligations might have been.⁵⁶⁶

Another Constitution-maker who only attended the 1891 Convention was the highly influential Queenslander, Sir Samuel Griffith. Griffith was an unusual type of Australian politician who compelled respect, even in the media, for his professional ability, however critically his activities in politics could have been viewed. His record as a past Premier of Queensland might be condemned by his enemies, but they never forgot that he was not merely legally qualified but an able and learned lawyer, calm, cautious and clear in exposition.⁵⁶⁷

When Griffith addressed the Convention on 4 March he spoke as a conservative with a wealth of (constitutional) learning for which he was famous.

*He [Griffith] explained to the delegates that if they accepted a federal constitution then they were giving the minority equal power with the majority, because in a federal constitution every law had to receive the assent of the majority of the people, and the assent of the majority of States. The latter represented a minority of the people. If the States were to have equal power with the people then the States' house, the Senate, must have at least a power of veto over the people's house, the Representatives. A strong Senate, was the essential condition of accepting federation. The minority could check and restrain the majority: the less populous States would not be dominated by the more populous States.*⁵⁶⁸

⁵⁶⁶ Ibid, pp129-32. Garran analyses several constitutions in his book, including several that describe the citizen as the political agent. Systems of government and their applicability to Australian conditions are also extensively discussed in his book. Much is spoken of the governor but little is said about those who are to be governed. Democratic representation, national suffrage and the people are discussed. The major failing of Garran's work was not describing the political agent and their rights, duties and obligations for the new Australian nation.

⁵⁶⁷ La Nauze, John (1972) *The Making of the Australian Constitution*, p 13. A man of immense talent, Griffith was highly respected across the British Empire for his constitutional and legal knowledge.

⁵⁶⁸ Clark, Manning (1999) *A History of Australia*, Volume V, p 71.

To Alfred Deakin, 'without Griffiths' theoretical and practical knowledge of constitutions in operation, it is doubtful that the Convention of 1891 could have produced a viable constitution'.⁵⁶⁹

John Cockburn, the former South Australian Premier, long-serving parliamentarian and delegate to both sets of Conventions was also a student of both the American and Canadian constitutional models. Although not a federalist zealot like Barton or Deakin, Cockburn was, nonetheless, a federalist all the same.⁵⁷⁰ Henry Parkes, leader of the 1891 Convention, had some acquaintance with the more dramatic aspects of American history and was accustomed to using it.⁵⁷¹ George Dibbs, the much-maligned delegate to the 1891 Convention, also referred to the Norwegian model and its methods of breaking deadlocks between both houses of parliament as an example to follow. As a long-serving New South Wales Premier during the 1880 and 1890s, Dibbs was also conversant with colonial constitutions in operation and was also very familiar with the Canadian, American and British constitutional principles.⁵⁷²

As a majority of the Constitution-makers were well-educated and had been, or were, serving politicians, most of them would have been conversant with the oldest and most influential of all constitutions, the (unwritten) British Constitution. That the Constitution-makers drew extensively from British political-legal traditions in attempting to develop an Australian nation becomes obvious upon further analysis. The historical legacy of the colonies had included a British monarchical (and imperial) model of government, rather than that of a European or American system of government with a republican or revolutionary tradition. This legacy included a reliance on British common law, rather

⁵⁶⁹ Deakin, Alfred (1995) *And be One People*, pp 49-50. Deakin describes Griffith in glowing terms. 'In every clause the measure [the constitution of 1891] bore the stamp of Sir Samuel Griffith's patient and untiring handiwork, his terse, clear style and force of expression. There are few even in the mother country or the United States who could have accomplished such a piece of draftsmanship with the same finish in the same time'.

⁵⁷⁰ La Nauze, John (1972) *The Making of the Australian Constitution*, p 18.

⁵⁷¹ *Ibid*, p 13. Parkes managed to refer to the American War of Independence, to the letters of George Washington, to the opinions of Napoleon, to a personal letter to himself from W E H Lecky (to whom he had been introduced by Lord Tennyson) and to a religious poet, James Montgomery, during his second speech at the 1891 Convention.

⁵⁷² Crisp, L F (1974) *Australian National Government*, pp 31-32.

than universal principles of human rights or citizenship as the basis for rights. Hence, the constitution is essentially silent on the rights of the citizen.⁵⁷³

Additionally, those Constitution-makers who had been exposed to classical scholarship, whether in Australia or overseas (including Barton, Wise, Higgins, Isaacs, Deakin, Symon, O'Connor, Baker, Glynn, Hackett and Cockburn), would also have been aware of the Greek and Roman nation-states, their constitutional models and the active participation of the citizenry in civic life. Although Athens and Rome may have been a world away to the Constitution-makers, they were drawing from the heritage left by the Greeks and Romans some two thousand years ago.⁵⁷⁴ Because few other republican models were available, the American Founding Fathers also drew heavily on Greek political works in devising their own republican system of government.⁵⁷⁵

Along with locally written articles and books, the Constitution-makers also used the works of several influential British political and legal theorists. The main authority on federalism referred to by the Constitution-makers was the British political theorist, E A Freeman. Freeman's *History of Federal Government*, in particular the early chapters, was invaluable. Freeman's book was never finished, but its first two chapters discussed the general principles of a federal system of government, while presenting extensive detail about the political system of the United States of America.⁵⁷⁶ Although Freeman was an acknowledged authority on federalism, James Bryce was a favourite among the Constitution-makers. As E G Blackmore, Clerk of the 1897-98 Conventions, told Bryce, 'a copy of his *The American Commonwealth* lay on the Table throughout proceedings'.⁵⁷⁷ Somewhat a 'bible' for the Constitution-makers at both sets of

⁵⁷³Salvaris, Mike (2000) 'Political citizenship', pp 80-1.

⁵⁷⁴Davidson, Alistair (1997) *From Subject to Citizen*, p 51.

⁵⁷⁵La Nauze, John (1972) *The Making of the Australian Constitution*, pp 270-88. See these pages for an analysis of the legal and constitutional experience of the Constitution-makers.

⁵⁷⁶Ibid, pp 23, 352.

⁵⁷⁷Ibid, p 23. E G Blackmore was Clerk of the South Australian Legislative Council and Parliament at the time of the 1897 Convention. Born and educated in England, Blackmore had been awarded a medal for service in action during the Maori wars (New Zealand). He was reputed to have the most sonorous voice in Australian 'officialdom' and was an authority on parliamentary procedure.

Conventions, Bryce's text was an unsurpassed authority on the constitutional and legal technicalities of federations and the mysteries of divided sovereignty.⁵⁷⁸

James Bryce had travelled to America three times between 1870 and 1890 and had studied its systems of government intimately. Fascinated by a new and radical set of ideas on government, Bryce set about explaining them to confused readers in Europe and in the Anglo-world. Confusing to most non-Americans was the existence of a double government, a double allegiance and a double patriotism. As Bryce explained, 'America was a Commonwealth of commonwealths, a Republic of republics, a State which, while one, is nevertheless composed of other States even more essential to its existence than it is to theirs'.⁵⁷⁹ Bryce understood that federalism was a complicated system of government and was apt to be misunderstood by those who only studied it superficially.⁵⁸⁰ Interestingly, Bryce dedicated *The American Commonwealth* to his close friend and constitutional colleague, A V Dicey. Dicey was another theorist whose works were influential among the Constitution-makers.

Dicey's *Law of Constitutions* was popular with the South Australian delegates (the most able group to attend both sets of Conventions).⁵⁸¹ Like Robert Garran, Dicey also argued (circa 1900) that there were four noteworthy examples of the federal system of government – the Swiss Confederation, the Dominion of Canada, the German Empire and the United States of America.⁵⁸² Each possessed a rich and colourful history and each had revised their constitutions in more recent times to more favourably reflect their particular circumstances. Of greater significance to the Constitution-makers was

⁵⁷⁸ Ibid, p 273. Bryce's book was quoted or referred to more than any other single work during the 1897-98 Conventions. It was never criticised, and was regarded with the same awe mingled with reverence, as the Bible would have been in an assembly of churchmen.

⁵⁷⁹ Bryce, James (1889) *The American Commonwealth*, Macmillan and Company, London, p 4.

⁵⁸⁰ Ibid, p 4.

⁵⁸¹ La Nauze (1972) *The Making of the Australian Constitution*, p 20. The South Australians were an able septet at the 1891 Convention and five of these same men were to represent their state again at the Conventions of 1897-98. Collectively, they were probably the most talented group at any of the Conventions. Whatever may have been their personal differences, they were all sincere federalists. Although Josiah Symon and Patrick Glynn were not in parliament during the 1897-98 Conventions, they were former members with a wealth of experience in constitutional law and political theory.

⁵⁸² Dicey, A V (1908) *Introduction to the Study of the Law of the Constitution*, MacMillan, London, p 134. See also Robert Garran (1897) *The Coming Commonwealth*, p 56.

the content of Dicey's book. His expositions on constitutional law, the nature of parliamentary sovereignty (particularly when associated with federalism), the rights and freedoms of the individual within the polity and the conventions of constitutions, were highly valuable for the Constitution-makers.⁵⁸³

Dicey's chapter on the 'Division of Powers in Federal States' was particularly useful as it compared and contrasted the systems of government in the American and German Republics, the Swiss Confederation, the Canadian Dominion and the (proposed) Commonwealth of Australia. When referring to the issues of state and national relations, Dicey explained in some detail the similarities between the Swiss system of federal government and the one that was envisaged by the Constitution-makers. Both nations, it seemed, had followed similar precedents in establishing their constitutions. As Dicey explained, when the Swiss (in 1848) and the Australians (during the 1890s) had written their individual constitutional models, both had followed closely the precedents and make-up of the American Constitution.⁵⁸⁴

Although the Constitution-makers (particularly the South Australians) had embraced the works of A V Dicey, they must have overlooked or ignored his commentary on French constitution-making. Unlike the Australian Constitution-makers, A V Dicey was very interested in the number of constitutions the French had written. (They had updated their constitution twelve times between 1789 and 1900.) Although he believed that French constitutions were rigidly structured when compared to the flexibility of the British Constitution, largely because of the difficulty of revision, what is significant is that Dicey wrote at length on the complex history of French constitution-making.

As Dicey indicated, from 1791 onwards the French had written clearly defined details on the citizen into their constitutions. Such things are conspicuously absent from the

⁵⁸³ La Nauze (1972) *The Making of the Australian Constitution*, p 273.

⁵⁸⁴ Dicey, A V (1908) *Introduction to the Study of the Law of the Constitution*, p 134.

Convention debates even though the Constitution-makers must have known of the existence of French constitutions and their extensive history of constitution-making. Although the French and British had been archenemies for centuries, ignoring such a rich history of constitution-making seems to have been a deliberate omission by the Constitution-makers, rather than an oversight by them.⁵⁸⁵ To Alistair Davidson, the limited defence of rights in the Australian Constitution reflected the belief of the Constitution-makers (and probably the middle-class citizens who voted in favour of the constitution) that the British traditions of common law and responsible government would be sufficient to protect individual liberties as they may well have been to protect the liberties of middle-class men.⁵⁸⁶

The claim that, since federation, Australians have resided in a democracy is difficult to justify. When we look at what a citizen does in expressing rights, Australia lags greatly behind 'best practice' for democratic citizenship in a nation-state, no matter the point at which we look at the situation. According to Davidson, a basically passive population of subjects had been created in the Australian colonies. They had only a weak sense of what they stood for as a 'people'. It was this 'people', however, who supposedly made the federal constitution of the Commonwealth of Australia, which became the foundation of the rule of law in Australia hereafter. It still governs our activities as citizens.⁵⁸⁷

Davidson also suggests that the constitution met the first requirement for a constitution in a modern polity.

It was a written constitution to which final reference could be made in a dispute about which policies the citizenry, understood as parties to the social contract, had agreed were in the public domain. Equally clearly, as the product of a passive citizenry which did not in fact agree as an active majority to its terms, it did not make the citizenry formally sovereign. It did not enshrine the basic rule of a democracy [acknowledged since Greek times]: the principle of a vote of equal value

⁵⁸⁵ Ibid, p 134.

⁵⁸⁶ Davidson, Alistair (1997) *From Subject to Citizen*, p 51.

⁵⁸⁷ Ibid, p 51.

*to all other votes, or control of the legislature and other organs of state by sovereign people. Nor did it contain any definition of what it is to be a citizen despite discussion at the Conventions at which it was drafted about the advisability of including that definition. It contains no bill of rights, despite the fact that such things are the cornerstone of modern liberties.*⁵⁸⁸

The limited scope of these rights becomes acutely apparent when they are compared to the 1791 Constitution of the French Republic, which was the first constitution to contain a formal statement of what it is to be a democratic citizen in a modern state. The first provision in the French model of 1791 expresses the key right to a vote of equal value with that of all other citizens and explicitly recognises that the people are sovereign. The second provision is a list of rights, including freedom of conscience, speech, organisation and property. These had become normal in many late-nineteenth century and twentieth-century constitutions, or added piecemeal in older documents like the American and Swiss constitutions.⁵⁸⁹

Omissions like these must have been deliberate political acts by the Constitution-makers, particularly in light of a century's advance in legal and constitutional understanding prior to 1891. That the Constitution-makers were better equipped than were the framers of the American, Swiss, Canadian, French or German constitutions is difficult to deny. The knowledge and practical experience they had gained in colonial parliaments and Federal Councils over several decades must have been highly advantageous to them. Besides, delegates to the Conventions of 1897-98 had the added advantage of having a written constitution with which to begin their work; basically Clark's model revised to suit Australian conditions at the time. Whether this starting-point was of value is debateable. Retaining the 1891 model as a basis for the 1897-98 Conventions certainly saved the Constitution-makers valuable time and effort. Maybe this would have been more time consuming. Yet, a fresh start with many new

⁵⁸⁸ Ibid, p 51.

⁵⁸⁹ Ibid, p 51.

faces and a few more liberals and democrats may have resulted in the writing of a more democratic constitution.

Although the Constitution-makers may have been men of practical politics and pragmatically inclined, they did have access to many constitutions and constitutional theorists who had written extensively on constitutions, systems of government and the functioning of the political agent within these systems. It becomes obvious that the Constitution-makers knew and understood what constitutions did and the purposes they served. That they wrote their constitution from a well-known formula is also apparent.⁵⁹⁰ The fact that they simply placed their faith in the Westminster system of government, the common law, representative government and centuries of British legal precedence, without exploring the relationship between the individual and the state in other political systems, is quite astonishing.

In the end, the Constitution-makers chose 'bits and pieces' from the constitutions that suited their purposes and ignored those that did not. Why they ignored ideas on the citizen and citizenship, although they had been described at length in the America, German, French and Swiss constitutions, has been a contentious issue since 1901. Maybe it is now time to rethink the concessions and compromises that were made at the Conventions and assess whether these were made for the greater good of all Australians, or whether they were made for matters of self-interest and political exigency.

6.4 Rethinking Compromises

Compromise and concession are often central aspects of any pact or agreement. Whether these are real and done with the best of intentions, or for personal gain, will vary from pact to pact. In an agreement as complex as was federation, the need for

⁵⁹⁰ Quick and Garran (1900) *The Annotated Constitution of the Australian Commonwealth*, pp vii-viii.

some concessions and compromises was essential. If the Constitution-makers had remained immovable on unpopular provisions, federation would probably not have ever come about. Of the Constitution-makers, Alfred Deakin admitted that he had often compromised on issues of principle at the Conventions.⁵⁹¹ This he claimed to have done for the greater good of the federation project. To the casual observer it can seem that federation would not have come about if Deakin had pursued issues that were of importance to him.

Although the federation project may have often appeared to him to have trembled in the balance⁵⁹², whether Deakin's compromises were as 'clear cut' as he has maintained is an interesting question to pose. Whether he made compromises for the greater good of the federation project, or whether he made these to gain his favoured position, is something that is not often explored. The example of Deakin and compromise is significant because he probably had the highest profile among the delegates to both sets of Conventions. His attendance at all federal conferences after 1886 had given him a profile among all colonial leadership teams. Deakin's election to the Victorian Parliament at the age of twenty three years had also made him something of a 'celebrity' among colonial politicians.

During his early years in parliament Deakin had been influential in enacting social and industrial legislation in Victoria. He had also travelled overseas on various colonial missions and was offered a knighthood (which he refused) at the tender age of thirty years.⁵⁹³ Thus, it is quite conceivable that his ideas would have been given due respect at the Conventions. A fine orator and federal enthusiast, it is also plausible that he possessed the skills with which to sway the opinions of his most hardened opponents. Yet at times Deakin's voice was conspicuous by its absence at the

⁵⁹¹ Botsman, Peter (2000) *The Great Constitutional Swindle*, p 36. Botsman claims that 'Deakin won the compromises' at the Conventions of 1891 and 1897-98.

⁵⁹² See page 11 of this thesis for Deakin's comments.

⁵⁹³ La Nauze (1965) *Alfred Deakin*, p 91. Deakin, to the surprise of his British hosts at an Imperial Conference in 1887, declined a knighthood that they assumed was the ambition of most colonial politicians.

Conventions. Some have described him as being 'everywhere but nowhere at the Conventions'.⁵⁹⁴

As Deakin was one of a group of 'advanced liberals' in his native Victoria, his attitude toward the working class is worth considering. While Deakin and his group looked to the betterment of all humanity, this was to be on their terms. Among the working class the self-improvement of the individual was important. It was essential to Deakin's group that working-class youth, in particular, learnt the value of law and order, education, temperance, moral and ethical norms, and the like, so that they could become worthwhile members of society.⁵⁹⁵ Outwardly, Deakin was always friendly to working-class people. As noted elsewhere in this thesis, Deakin had cordial working relations with Joseph Cook and Andrew Fisher, both leaders of the Australian Labor Party. Whether he would have entertained them in his home, or given the hand of one of his daughters in marriage to their sons, is another thing.⁵⁹⁶ When considered in this light, Deakin's compromises can appear to have been about the protection of the middle-class way of life he so much enjoyed.

Although Deakin admitted to making concessions and compromises at the Conventions, he was not alone in this. To Manning Clark, genial Edmund Barton, the cheery soul with the melancholy eyes, was a Pontius Pilate type of liberal who was quick to compromise his position and principles for personal gain.

He did not like to face up to big questions. No one ever knew whether his belief in compromise sprang from some political creed about which he remained silent, or from a more cynical belief that compromise preserved the way of life he loved, that life of ease of the members of his own class, the patricians of Sydney who had inherited the power first held by the ancient nobility of New South Wales. Barton made it clear to the delegates that he wanted the Senate to have a [power] of veto.⁵⁹⁷

⁵⁹⁴ Botsman, Peter (2000) *The Great Constitutional Swindle*, p 36.

⁵⁹⁵ Connell, R and T Irving (1992) *Class Structure in Australian History*, Longman Cheshire Pty Ltd, Melbourne, p 93.

⁵⁹⁶ See page 124 of this thesis for further comments.

⁵⁹⁷ Clark, Manning (1999) *A History of Australia*, Volume V, pp 73-4.

Interestingly, during the debate over the Constitution Bill in the New South Wales Parliament in 1897, Barton was heard to say that ‘without equal representation in the Senate he would not consent to federation’.⁵⁹⁸

Barton’s colleague at the 1891 Convention, Samuel Griffith, was the delegate who exercised the greatest influence over the editing of the first draft of the constitution. To Manning Clark, Griffith was a man with few political convictions and one apt to change his principles to suit the needs of the time.

*He believed in a society which singled men out of talent and industry for special rewards. He believed in equality of opportunity. Like Deakin and all those who subscribed to liberal ideas he believed there was no need to change the existing society in Australia, because it was already possible for the deserving and the meritorious to win these rewards. In 1888 he published a manifesto in which he had identified himself with the cause of the people in their struggle against their gaolers and their oppressors. The turbulence in the Queensland bush had pushed him back into the camp of the defenders of bourgeois society. From that time he believed he knew what was what in public life.*⁵⁹⁹

Like Parkes, Griffith was adept at shifting his political allegiances, whether for the retention of office, or in matters of personal ambition and gain. It is noteworthy that he would rather side with his archrival, the ultra-conservative Thomas McIlwraith, than with the radical labour groups of the 1890s.⁶⁰⁰

Nonetheless, as Stuart Macintyre observes, ‘even during the 1890s there were advanced nationalists, democrats and radicals who argued that the concessions made to secure agreement [on federation] were too great’.⁶⁰¹ For example, George Reid was courageous enough to voice his concerns about the undemocratic nature of the Constitution Bill that was presented to the voting public in 1898 and again in 1899. Reid believed that his native state of New South Wales had conceded too much to gain

⁵⁹⁸ Crisp, L. F. (1990) *Federation Fathers*, p 158. On 21 July 1897, after the Adelaide Convention, Higgins pointed out to the Victorian Legislative Assembly that, in the sister legislature in Sydney, Richard Sleath and George Black had already scathingly criticised the New South Wales and Victorian delegates for doing so much more conceding and compromising than was called for or was good for their colonies or for the future Commonwealth.

⁵⁹⁹ Clark, Manning (1999) *A History of Australia*, Volume V, p 71.

⁶⁰⁰ Botsman, Peter (2000) *The Great Constitutional Swindle*, p 23.

⁶⁰¹ Macintyre, Stuart (1997) *A Federal Commonwealth, an Australian Citizenship*, p 2.

⁶⁰¹ *Ibid*, p 3.

federation.⁶⁰² A I Clark was another who stood by his principles and voted against the constitution that was basically his handiwork. Clark believed that the financial division of powers were inequitable and that the smaller states (Tasmania, in particular) would pay a heavy financial penalty with the advent of federation.⁶⁰³

H B Higgins was often pilloried for his principled stance on issues that were important to him. He could see the rigid and unwieldy nature of the constitution and his prediction that it would be almost unchangeable must surely ring in the ears of the Deakinites. Higgins was especially disappointed by the gratuitous way in which his own Premier, Turner, and other Victorians, like Deakin, had from the beginning of the 1897-98 Conventions conceded, initially unasked, so much of what the narrower provincialists of the small colonies were seeking. Yet he was not blind or insensitive to the bases of the support most of the delegates gave to the draft Bill when completed.

At bottom he explained:

*Even the mere sense of loyalty and respect for one's colleagues is a strong incentive to recommend the Bill. There is also the desire, the legitimate ambition, to have one's name go down in the annals as one of the framers of the Federal Constitution for Australia. So it is not by any means remarkable that you find most of the delegates concur in favour of the acceptance of this Bill.*⁶⁰⁴

Charles Kingston was another who voted on issues of national interest, rather than those that were of benefit only to his state. To Fin Crisp:

*Kingston was one of the few true federalists at the Conventions. What distinguished and separated him clearly and unmistakably from so many South Australian and other "small colony" political spokesmen and federalists were his forward-looking, radical-liberal outlook and his vision of a dynamically-developing Australian continent-wide nation responsive to that outlook. This it was that enabled him to positively acknowledge and urge the essentially national nature or potentiality of some fields and subject-matters which many contemporaries wanted to keep – whether from more parochial and limited vision or from real or imagined vested interest - well and truly within the confines of their State boundaries and the ambits of their anything-but-democratic provincial legislatures.*⁶⁰⁵

⁶⁰² Crisp, L F (1990) *Federation Fathers*, pp 11-13.

⁶⁰³ Botsman, Peter, (2000) *The Great Constitutional Swindle*, pp 30-1.

⁶⁰⁴ Crisp, L F (1990) *Federation Fathers*, p 159.

⁶⁰⁵ *Ibid*, pp 282-83.

A B Piddington, free-trade liberal, barrister and New South Wales parliamentarian (1895-98), also recognised that many compromises had been made at the Conventions. Piddington's general theme was the basic incompatibility of British responsible government – understood and practised by the colonies – and 'Federation-American-style', which he saw as characterised by the dichotomy of 'a two chamber system, with one House in which men shall be equally and the provinces in which they reside unequally represented, and a second House in which these provinces should be equally and men unequally represented'. The adoption of such a legislature he held to be fatally contradictory.⁶⁰⁶

Piddington harboured deep suspicions about the undemocratic nature of, and powers of, the Senate, particularly regarding the money clauses of the constitution.

Coming to the money clauses of the Bill, the powers given to the Senate under this measure are such as to violate every cherished principle of the English Constitution. The Senate here is given the practical power to veto Bills of Supply, to veto even the Appropriation Bill for the ordinary services of government. I ask, are we to stand with folded arms and see this jewel of the English Constitution, the heirloom of our national being and the amulet of our political strength, cast out and trodden underfoot? To be asked to surrender the money power to a Senate constituted as that body is under this Bill, and to be asked to do it "in order to enlarge the powers of self-government of the people of Australia" is merely to have added the insult of sarcasm to the injury of theft.

Serious consideration and detailed analysis of the questions raised by these men is something rarely contemplated in accounts of the federation movement. Further, that these men did not receive support from their peers is instructive. Each was demanding fairness and equity on constitutional provisions that were demonstrably unjust.

Compromise and concession are the most likely reasons to explain why support was not given to them.

Citizenship seems, however, to have been an issue with which few of the Constitution-makers truly wanted to engage. Although Deakinites deny it, compromises were made

⁶⁰⁶ Ibid, p 132.

during the debates on citizenship. By leaving ideas on the citizen out of the constitution, the Constitution-makers left themselves open to the accusation that any ideas they had on citizenship were motivated by a desire to augment and diminish, and to restrict along exclusionary lines. (These contentions will be explained more fully in the next section.) Maybe the Constitution-makers feared that the granting of full citizenship rights to *all* Australians (especially the working-class) would have adversely affected the material and political interests of the middle-class.

From the reactions of the capitalists during the 1890s, the rise of labour politically constituted a direct threat to the middle class hold on power and, more particularly, the autocracy of capital in industry. How to find a balance between political democracy essential to the legitimation of the state and the autocracy of capital in industry was a perplexing issue for both the Constitution-makers and their capitalist peers. Whether this led to a determination by the Constitution-makers to tighten control over the institutions of power through the granting of a limited democracy and the withholding of citizenship (to the working classes in particular) remains problematic. It is not difficult to argue that an exclusionary and restrictive constitution was a most suitable vehicle with which the Constitution-makers could attain such an outcome.

Furthermore, from the federation meetings of the mid-1890s, to the referenda of 1898-99, to the passage of the Constitution Bill through the British Parliament in 1900, there was relatively little change to the constitution that was drafted by A I Clark and edited by Samuel Griffith in 1891. In fact, the sections allowing for constitutional change by popular referenda became more rigid with the passage of time.⁶⁰⁷ What is more, a range of popular radical views were compromised by the Ultra-Federalists during 1893. As Mark McKenna points out, when a 2,000 strong meeting orchestrated

⁶⁰⁷ Macintyre, Stuart (1997) *A Federal Commonwealth, an Australian Citizenship*, p 3. Critics have been struck more by the exclusions from the Commonwealth of Australia, including the absence of women from the Conventions of the 1890s, the discrimination against Aborigines and Torres Strait Islanders in the constitution, its inscription of a white male supremacy, the failure to include a bill of rights, the lack of reference to Australian citizenship, among other things.

by Edmund Barton at Sydney Town Hall voted by a margin of two to one for a democratic republic to be called the United States of Australia, the result was declared invalid and the police moved in to clear the hall.

The Sydney meeting was many times larger than those held at Corowa, Bendigo or Bathurst and called for democracy, nationalisation of lands and the abolition of legislative councils, among other things.⁶⁰⁸ The experience of Barton and others at the Sydney meeting saw them vet attendees to the Corowa Conference in 1893.

Anarchists, socialists and other radicals were refused entry to this meeting, one that is at the heart of the 'people centred', Deakinite account. If the people had been closely involved in the making of the constitution, why so few Australians then and now, have any knowledge of, or understanding of its sections or clauses, or can even name its principal architects, is problematic. In fact, a counter theory seems more appropriate: that the lack of involvement of the Australian people has led to an indifference and ignorance about the rules and structure of the nation. Maybe successive generations of Australians believe that they too have been compromised by a compromised federation story.

Why the Australian people rejected citizenship for themselves is one of the greatest mysteries of federation. It must be asked whether the majority of Australians truly understood what their representatives were deciding for them at the Conventions and in colonial parliaments. Whether 'the people, in accepting a federal constitution, could be presumed to understand the consequences of their own acts'⁶⁰⁹, can be answered in the affirmative, remains problematic. It is plausible believing that the conservative majority at the Conventions did not want to concede political power to the people, so provisions for citizenship were excluded from the constitution. Yet, why the people

⁶⁰⁸ Mark, McKenna (1996) *The Captive Republic*, pp 198-99.

⁶⁰⁹ Crisp, L F (1990) *Federation Fathers*, p 133. Piddington posed this question during debate over the Constitution Bill in the New South Wales Parliament in May 1897.

allowed citizenship rights *for themselves* to be excluded from the constitution is bewildering.

It must also be remembered that Deakin, Barton and other of the Ultra-Federalists would have federated with a deeply flawed constitution at any time after the 1891 Convention. The Ultra-Federalists would have readily compromised their principles just to have been associated with the advent of federation.⁶¹⁰ They accepted the flaws in the constitution that had emanated from the 1891 Convention, did little to rectify these at the Conventions of 1897-98, and then put it to the people for endorsement in 1898 and 1899. Yet the Ultra-Federalists readily accommodated Reid when he called for a Premiers' Conference in Hobart during 1899 with the express aim of 'democratising' the constitution.⁶¹¹ It is difficult to deny that compromise and concession accompanied the federation movement from the outset. Too many Constitution-makers compromised principle and position too often for personal gain or for matters of political expediency.

Maybe the Deakinites do recognise that compromises and concessions were made at the Conventions more for reasons of self-interest, personal gain and political expediency, than for any other. How to fit these into their heroic stories about federation was always going to be problematic for them. Ignoring them or papering over them as being an essential aspect of the federation movement may have been the simpler option for them, rather than confronting and explaining them. When stories of the federation movement are placed in this context, it is not difficult believing that the motivation to produce a compromised constitution was a close companion of the federation movement. The absence of citizenship from the constitution was the greatest compromise made at the Conventions. How the inclusion of citizenship might

⁶¹⁰ La Nauze (1972) *The Making of the Australian Constitution*, pp 94-5.

⁶¹¹ Crisp, L F (1990) *Federal Fathers*, pp 19-21. See these pages for the initiatives that Reid was seeking, and the outcomes he achieved, at the (Secret) Premiers' Conference in Hobart during 1899.

have affected the class structure of Australian society will be discussed in the next section.

6.5 Possible Effects of Citizenship on the Class Structure

Citizenship in Australia has had a complex and confusing history. At federation in 1901 no legal category of Australian citizenship existed: British subject remained the sole civic status. As delegates to the Conventions of 1897-98 faltered over the issue of citizenship, the Australian Constitution provided neither a definition of citizenship nor a power over it. The term citizen was not used in British law at the time, which spoke only of subjects. The Convention delegates wished to preserve the British nationality and the British subject status already existing in the colonies, since both politicians and other public figures identified themselves, and the new state they were attempting to create, as British.⁶¹²

During the Conventions influential liberals argued that a definition of citizenship, or a power over it, should be included in the constitution to identify British subjects resident in Australia and to allow future parliaments to deal with circumstances which the delegates could not yet envisage. However, the proposal failed when agreement could not be reached on a meaning for an Australian citizenship supplementary to the status of British subject, and the issue became confused over the co-existence of state and federal citizenships. When the matter was revisited during a proposal for a safeguard of individual rights (which eventually became, in a much reduced form, Section 117 of the constitution) debate again floundered in confusion over interpretation of the term citizen.⁶¹³

For some Constitution-makers the term citizen possessed republican connotations, and they were reticent to give it legal meaning in their constitution, because it could be

⁶¹² Dutton, David (1999) *Citizenship in Australia*, p 9.

⁶¹³ Dutton, David (2002) *One of Us?*, p 10.

construed as a departure from British forms of government. Eventually, the term citizen was avoided in the constitution and reference was made only to the 'people of the Commonwealth'.⁶¹⁴ Although Barton may have brought debate over citizenship to a halt at the Melbourne Convention of 1898 by claiming that the term citizen did not exist in British legal terminology, his actions in this case were quite predictable. Citizen, with its republican associations, was not compatible with a constitutional monarchy, so it was not included in the constitution.⁶¹⁵

There were, however, other 'less obvious' reasons why the Constitution-makers may have been reluctant to write citizenship into the constitution. If full citizenship rights had been granted to all Australians with the advent of federation in 1901, the working class could have taken control of the state via the ballot box and voted the middle class from power. This would not have been an impossibility, given the rise in popularity of the Australian Labor Party (ALP) after 1901. It appears the Constitution-makers believed that, if the state could not be directly controlled, the state's actions had to be restricted. Hence a rigid and restrictive constitution. In addition, if the working class had taken control of the state via political means, several other issues could have arisen that would have been of concern to the Constitution-makers and the middle class.

Since its inception, it can be argued that the ALP has sought to introduce a fair and equitable distribution of wealth across Australian society. It is quite conceivable that had the ALP gained power in the early years after federation issues of wealth creation and distribution, and taxation generally, could also have come under scrutiny. It is not inconceivable that the ALP would have introduced a more progressive system of taxation than that which existed at the time. Wealth taxes, inheritance taxes and death duties are examples of taxes that could have been introduced by the ALP. Such things

⁶¹⁴ Dutton, David (1999) *Citizenship in Australia*, p 9.

⁶¹⁵ *Ibid*, p 13.

would have represented a major ideological victory for the working class generally. Moreover, if the ALP had gained a substantial hold on power nationally, it could have set about convincing working-class Australians, in particular, of the advantages of constitutional change.

In this scenario banks, financial services, major industries and other 'essential' services, could have been nationalised and brought under the control of the state. Such things would have constituted a direct threat to the liberal-capitalist system of production and exchange, along with the material interests of the middle class generally. More importantly, this would undoubtedly have heightened middle-class fears of socialism. Although the ALP has never been a truly socialist political party, non-labour politicians have often claimed that socialism was a major part of ALP ideology and policy.⁶¹⁶ The threat of socialism does seem to have been a major concern for non-labour political parties since the 1880s. It is quite plausible that keeping the threat of socialism to a minimum was a major part of the Constitution-makers' work. Combined with this, a middle-class fear of the 'mob' may have kept the Constitution-makers from granting full citizenship rights to Australians.

To many in colonial society, the power of the 'mob' presented a very real threat to the middle-class way of life. Gatherings of the unemployed and poor on the Domain in Melbourne and at the Rocks in Sydney during the economic recession of the early-1890s and again during the industrial confrontations of the 1890s, truly frightened the middle class.⁶¹⁷ It is not inconceivable believing that many saw the spectre of

⁶¹⁶ Crisp L F (1974) *Australian National Government*, pp 11-14. George Reid was certainly concerned about a socialist threat. He was eager for the non-labour political parties to come to a compromise over economic differences (particularly between advocates of free trade and protection) and combine against the ALP. See also Gollan, Robin (1966) *Radical and Working Class Politics*, p 153. Gollan claims that the roots of the Australian Labor Party (ALP) may have been in socialist thought, however, by the time of federation, the ALP had become a party of political pragmatism, one more akin to a liberal party.

⁶¹⁷ Scates, Bruce (1997) *A New Australia*, Chapter 5. Scates refers to the protests of the 'victims' of the economic downturn across South Eastern Australia (in particular) during the early 1890s. During these the repressive forces of the state were widely used to quell the unrest and ill-feeling that existed within the unemployed and the poverty-stricken. Private property was attacked, effigies of political and church leaders were burnt, laws were challenged and often broken, when the unemployed rioted in public open space. Mounted troops, armed and with orders to shoot to kill or maim, were issued by nervous leaders. See also Burgmann, Verity (1985) *In Our Time*, p 13. Jack Andrews, the Melbourne anarchist, wrote in the *Tocsin* of 31 May 1900, that 1890 saw the beginning of a period in which Australia

revolution hanging over these working-class gatherings. Revolution and civil unrest were very real threats in the colonial imagination. Although Australia may have been isolated geographically, news of revolutions across Europe during 1848, the American Civil War of the 1860s, and the Paris Commune of 1871, rapidly reached Australia.⁶¹⁸

Each of these events presented a graphic reminder to middle-class politicians and power-brokers of the power of a restless, dejected and disenfranchised citizenry when these politicians and power-brokers debated democratic ideals. How to grant the 'mob' democratic rights, albeit on a limited and restrictive scale, was one of the greatest challenges confronting the Constitution-makers. Fear of social disorder and the breakdown of law and order were very real concerns for policy-makers in the late-1890s. Along with a fear of the 'mob', the Constitution-makers and their peers may have also feared the 'thinking' radical who was calling for a fundamental overhaul of colonial society.⁶¹⁹

Anarchists, socialists, single-taxers and other radicals, although a small minority that resided well outside the mainstream of society, seemingly possessed the potential to influence the national debate on democracy, citizenship and nationhood. Often intelligent and well versed in radical texts and theories many of these individuals

was on the verge of revolution; that in 1890 civil war was but narrowly averted. In the 1890s, during the strikes and their aftermath of suffering and humiliation, a revolutionary situation undoubtedly existed in Australia. All things seemed possible, and it is little wonder that the thought of those in the vanguard turned towards revolution. Such things caused much angst among the middle classes.

⁶¹⁸ Markey, Ray (1988) *The Making of the Labor Party in New South Wales*, p 202. In 1873, hundreds of Sydney working men and women enthusiastically greeted the families of the Paris Communards en route to joining their husbands and fathers at the French penal colony in New Caledonia. Their convict origins may have encouraged Sydneysiders' sympathy, but the demonstration symbolised much more: a universal working-class commitment to the democratic ideals which the Paris Commune symbolised. See, Bob James (1986) *Anarchism and State Violence in Sydney and Melbourne 1886-1896*, p 81. The Paris Commune was a popular topic of discussion and debate among anarchists and socialists, including one future New South Wales Premier (1913-20), W. A. Holman. See also, Verity Burgmann (1985) *In Our Time*, pp 7-10. These pages present examples of British and European intellectuals and writers who travelled to Australia during the latter decades of the nineteenth century. Many of the ideas they brought with them directly challenged the status quo: whether laws, political and economic systems, or other matters associated with government and governance.

⁶¹⁹ Scates, Bruce (1997) *A New Australia*, pp 12-37. Radical groups were spread across a wide spectrum of ideas, ideals, politics and ethnicities. Anarchist, single-taxer, socialist and nationalist, refugees from Prussian militarism, the Paris Commune and English, Austrian and Italian class struggles, filled their ranks. Locals like David and William Andrade, J A Andrews and 'Chummy' Fleming were Australian members of these groups. Many suffered persecution and gaol for their beliefs. Most were at the heart of the demonstrations and protests during the 1890s. Although these individuals and groups may have been few in number and virtually powerless politically, their democratic, liberal and anarchic ideas and ideals presented direct and real threats to the power and privileges of the middle class. Bob James' text, *Anarchism and State Violence in Sydney and Melbourne 1886-1896*, is an account of these groups and their activities in the 1880 to 1900s.

possessed the rhetoric and charisma to attract considerable numbers of followers.⁶²⁰

However, at every turn they were obstructed by the auspices of the state, amid accusations of disloyalty, being un-Australian or unpatriotic. Although they never effectively threatened the capitalist agenda, these fringe groups must have been considered a problem by those in power and position. Ensuring that their voices were silenced was a sure way to negate their influence. The absence of ideas about citizenship in the constitution was an valuable device with which to achieve this: they could then effectively be classified as non-citizens.

If ideas on citizenship had been written into the constitution they would probably have been shaped around those in the constitution of the United States of America. If so, notions of citizenship would probably have guaranteed the protection of human rights. The inclusion of a constitutionally enshrined Bill of Rights would also have been a likelihood. Consequently, legislative issues that had arisen immediately after 1901 could also have come under intense scrutiny. How the Constitution-makers could have justified the White Australia Policy (WAP) is an intriguing question to pose. Although the WAP is often labelled a cultural policy by Deakinites, one that was designed to protect wages, working conditions and the Australian way of life, this is a difficult argument to sustain. It was an inherently racist policy with the capacity to diminish or exclude: the negation of the rights of Indigenous Australians, Asians, women and non-Anglo men, attests to this.

Whether Indigenous Australians could have been 'written out of' the constitution would have been highly problematic for the Constitution-makers, particularly as non-white citizens had been granted rights after the American Civil War. A rights-based citizenship would also have placed the likes of John Forrest in a predicament. Forrest was against Commonwealth citizenship because he sought to regulate the flow of

⁶²⁰ William Lane, who led the creation of an ill-fated utopian settlement in Paraguay was the most notable of the radicals. Others, like the British single-taxer, Henry George, were also influential in radical circles.

migrants into Western Australia, particularly Chinese and other foreigners who were seeking employment in the gold mines of Kalgoorlie and Coolgardie. Unlike many other delegates, Forrest was bold enough and honest enough to say publicly that there was a strong feeling across Australia against the introduction of coloured persons at any level of society.⁶²¹ He was not alone in this view.

During the debate on citizenship at the Melbourne Convention of 1898, several delegates objected that if it (citizenship) was written into the constitution, it would interfere with the independence of the states, and specifically that it would prevent a state from discriminating against aliens. Others objected that without a definition of citizenship, it was meaningless. Richard O'Connor proposed an amendment that would give some substance to citizenship by specifying certain rights of citizenship. He wanted to add a stipulation, along the lines of the United States Constitution, that, 'A state shall not deprive any person of life, liberty, or property without due process of law'. However, other delegates were offended by the imputation that such a guarantee was necessary and rejected it by 23 votes to 19.⁶²²

John Quick made two further attempts at the 1898 Convention to inscribe citizenship in the constitution. First, he proposed to add to the list of Commonwealth powers set down in Section 51 a provision for the Commonwealth Parliament to make laws with respect to Commonwealth citizenship. He thought that without such a provision the constitution would not be complete, for although the preamble referred to the people of the various colonies agreeing to unite in a Commonwealth, there was no indication of who the people were. Without some test of citizenship, he warned that 'all the people

⁶²¹ Official Record of the Debates of the Australasian Federal Convention, Melbourne 1898, pp 665-66, 682-83. John Forrest spoke forcefully at the Conventions about racism within the colonies. He was bold enough to say what many of his colleagues were thinking but unwilling to speak about publicly.

⁶²² Macintyre, Stuart (1997) *A Federal Commonwealth, an Australian Citizenship*, pp 6-7.

within the jurisdiction of the Commonwealth of all races, black or white, or aliens, will be considered members of this new political community'.⁶²³

Here already it was apparent that the argument for citizenship was motivated both by a desire to augment and to diminish, to spell out and secure the rights of citizenship and to restrict them along racially exclusive lines. There was already a power to exclude foreign races, but the position of existing residents was unclear. Quick wanted a definition of citizenship and power to make laws about it in order to 'empower the Federal Parliament to exclude from the enjoyment of and participation in the privileges of federal citizenship people of any undesirable race or of undesirable antecedents'.⁶²⁴ Despite the cogence of his argument, Quick's ideas on citizenship were swamped by the doubts of the majority at the Conventions.

I will leave the last word to the Leader of the 1897-98 Conventions and Australia's first Prime Minister, Edmund Barton.

*My doubt is whether we should not rather cumber the Constitution by using the word "citizens," and requiring a definition of citizens when we use it here, and when the ordinary term to express a citizen of the empire might be used. We are subjects in our constitutional relation to the empire, not citizens. "Citizens" is an undefined term, and is not known to the Constitution. The word "subjects" expresses the relation between citizens of the empire and the Crown. But I would like to put this consideration to Dr. Quick, that if we use the term "subject", or a person subject to the laws, which is a wider term, we shall avoid the necessity for a definition of "citizen." You might say a subject or resident being the subject of the Queen. It is far better not to import the word "citizen" here if we can deal with it by a term well known in the constitutional relations of the empire between the Queen and her subjects.*⁶²⁵

Barton (and probably the majority of the Constitution-makers) had no intention of engaging with notions of the citizen. Subject was a safer option for them as it required little if any extrapolation. They knew that if they were to engage with citizenship then

⁶²³ Ibid, pp 6-7.

⁶²⁴ Ibid, p 7.

⁶²⁵ Official Record of the Debates of the Australasian Federal Convention, Melbourne, 1898, p 1764.

they would have to deal with issues like those that have been discussed in this section. It was easier to ignore it.

6.6 Conclusion

Although the Deakinites acknowledge that citizenship was extensively discussed at the Conventions, that the Constitution-makers did not write ideas on citizenship into the constitution does not seem to be problematic to them. Seemingly, Australians have always been citizens. Colonists since the 1850s had referred to each other as citizens. They had looked to the leading men (and women) of the colonies to exhibit the traits of the citizen. And they had sought, as citizens, to shape the new Australian nation they were envisaging. Theoretical ideas on the citizen and citizenship also seem unimportant in Deakinite accounts. Practical and pragmatic ideas on 'how citizenship was done' are more important to Australians, they claim.⁶²⁶ By placing the practical aspects of citizenship over and above its theoretical underpinnings, successive Deakinites have successfully 'explained away' the absence of citizenship from the constitution. This is surprising given that the Constitution-makers had several constitutional models that included ideas on the citizen to choose from, as they wrote their own.

Many of these constitutions had been functioning for lengthy periods, particularly those of the American Federation, Canadian and Swiss Confederations and (Australian) Colonial Federal Councils. That A I Clark and Charles Kingston brought written constitutions to the 1891 Convention attest to the existence of many applicable constitutional examples; both drew heavily from the aforementioned constitutional models. Arguably, Clark's passion for the USA Constitution above all other models blinded his colleagues to the suitability of other constitutional models for the Australian

⁶²⁶ Irving, Helen (1997) *To Constitute a Nation*, p 170. To the Constitution-makers, a citizen was an individual member of the people, someone who was a political subject, responsible, respectable, sober enough to participate. The citizen could not be defined any more than the people, but there were things that the people could be legally allowed or even required to do. As Irving notes, the delegates at the Conventions, after great debate on the citizen, were happy to fall back on the general, cultural use of the term.

context. Although the Constitution-makers may have been men of practical politics, several were highly conversant with the works of foreign political and constitutional theorists. Several of the Constitution-makers had also travelled to foreign nations to study the practical application of these constitutions.

With a majority of the Constitution-makers trained as lawyers, the legal, political and constitutional knowledge-base of the delegates to both sets of Conventions was more than adequate to construct a constitution for the Australian nation. Lawyers of the calibre of Samuel Griffith, Josiah Symon, Bernhard Wise, Alfred Deakin and Edmund Barton were all significant contributors to the Convention debates. As all but one of the Constitution-makers were, or had been, parliamentarians, issues of government and governance were not foreign to them as they began their discussions in 1891. What is surprising is the resistance to mildly radical change at the Conventions, particularly in light of the inequities that existed in colonial societies at the time. The question of why more positive attempts were not made to overcome these remains problematic. It can seem, however, that issues of principle were often compromised at the Conventions in the interests of the greater good of the middle class or as understood from a middle-class perspective.

The compromises and concessions that were made along the road to federation are not often discussed in constitutional histories. These absences, however, do indicate the way Deakinites tell their stories. As has been noted elsewhere in this thesis, Deakinites tell heroic and triumphal stories of federation in which the Constitution-makers made significant personal sacrifices to bring about federation, which evidences a selflessness on their parts. Furthermore, it is not unreasonable to suggest that the Constitution-makers may have had ulterior motives in making their compromises. They were, after all, mere human beings. They too possessed the frailties and shortcomings that most of us possess. It is both unfair and unrealistic to see these men as demi-

gods, as makers of miracles. It is quite believable that most of them would have understood that they were participating in an event of great historical importance and that class issues were part of their sense of history.

It is reasonable to assume that most of the delegates to both sets of Conventions would have been enthusiastic about being associated with federation. Most would have realised that compromise and concessions were essential in bringing about federation, even if some of these were made against matters of principle. The most glaring omissions from the Australian Constitution, however, were ideas on the citizen. That a group of enlightened, 'modern' men, did not develop a notion of the citizen and write it into a guiding document for a future nation, may have been a deliberate political act by them. It is difficult to deny that the Constitution-makers were reluctant to include the majority of Australians in the constitution they had created because they feared that granting them full citizenship rights could have threatened the middle-class hold on power and authority.

In the end it is not difficult to acknowledge that the Constitution-makers saw themselves at the crossroads: at the cusp of an old era while attempting to envisage the possibilities of a new age. Did they have the tools with which to envisage the new? For the majority, it seems not. Too many of them, in particular the conservative element, were backward looking, keen for the security of the past, the life of power, privilege and authority that middle-class men enjoyed. In all fairness, it was a world they understood and in which they felt comfortable. Whatever may be said to the contrary, it was a world based on class, hierarchy and middle-class hegemony at all levels of society. When the decision-making of the Constitution-makers is taken into account, particularly around issues of democracy and citizenship, it becomes readily apparent that the exclusion of citizenship can appear a deliberate political act. It is difficult to imagine them making any other decision.

Conclusion

The nature and objectives behind Australian stories of constitution making remain highly contested. Two opposing lines of argument permeate these stories. The Deakinite account is a tale of heroism, one of personal, familial and economic sacrifice by the Constitution-makers for the greater good of all Australians. Deakinites also claim that Australian society was, and is, based on egalitarianism, tolerance, equality and a fair go for all. The people, Deakinites believe, actively participated in the federation movement with the result that the Australian constitution is taken to be a democratic and inclusive one in which the people are sovereign agents in the Australian nation.

In Deakinite stories, the constitution defines the relationship between the individual and the State as that of citizen and government and not as that between subject and Crown. Abstract ideas about the citizen and citizenship are unimportant for Deakinites, because practical and pragmatic ideas on “how citizenship was done” are more important to Australians, or so they claim. By giving priority to practical aspects of citizenship over and above its theoretical underpinnings, successive Deakinites have “explained away” the absence of citizenship from the constitution. As discussed at length in Chapter 6, the absence of any mention of citizenship reflects the ability and willingness of the majority of Constitution-makers to make compromises that reflected the common sense and the interests of middle-class Australians.

As the preceding comment suggests, it is the issue of compromise that raises larger questions about constitution-making. Deakinites tend to gloss over the reasons why definitions of citizenship and the rights and responsibilities of the citizen are not included in the constitution. That the constitution describes how the governor is to function while little is written about how the political agent is to function within the

Australian polity seems not to concern Deakinites. The near impossibility of changing the constitution is also unimportant to them. Deakinites claim that in spite of its relative imperviousness to change, the constitution has always been a liberal and democratic document and a sure guide for the development of the Australian nation and its people over time.

At some point during my research, it became apparent to me that Deakinite stories are no more or no less myths. With no defining moment in Australia's history, a myth had to be constructed to make sense of an event (federation) in which few seemed genuinely interested. It was a myth told in metaphor and allegory, and replete with stories about prophets, disciples and their chosen people. What is more, the stories Deakinites tell are in the words of the victors, presented in the images of the victors, clothed in the prejudices of the victors; while the losers are relegated to a footnote in the historical record, or excluded altogether.

Dissenting voices have had great difficulty gaining exposure in these accounts. In recent years another story has challenged the Deakinite orthodoxy. In this dissenting account, the Deakinite myth is too simplistic. Too many influential characters have been excluded from it, particularly those who wanted debates to continue until a fairer and more just constitution was devised. In dissenting anti-Deakinite accounts, those who opposed the constitution because they could see its flaws and its undemocratic and illiberal nature were pilloried for their equivocation. A need to define who the people are (citizens or subjects?) and issues of class in colonial society, especially the winners and losers with respect to the federal compact, are some of the central themes in this dissenting account.

Rather than a triumphal journey to federation, in anti-Deakinite accounts constitution-making was characterised by compromises and concessions that resulted in a series of

individuals, groups and ideas being excluded from constitution making, the constitution and Deakinite stories of federation. Most anti-Deakinites acknowledge that compromises had to be made in bringing about federation. Men (no women were directly involved in writing the constitution) with a national viewpoint they believe, often acquiesced to those delegates whose primary interest was a good deal for their state or colony. Anti-Deakinites are critical of the heroes in Deakinite accounts, the Ultra-Federalists, however, believing that these men were either oblivious to, or turned a blind eye to, the effects that an undemocratic and illiberal constitution would have on working-class people.

Some of the Constitution-makers excluded from Deakinite accounts are given their "voice" in anti-Deakinite accounts. Several notable positions taken by Constitution-makers at the Conventions and discarded by them, for whatever reason, are also brought to light in anti-Deakinite accounts of constitution making. The exclusion of citizenship from the constitution was one important outcome successfully gained by those who presented themselves as States' Rights men. This was a deliberate political act by conservatives intent on retaining middle-class hegemony, while stifling working-class ambitions for a voice in the polity. Hence, what the Constitution-makers put in place was about the inclusion of the few and the exclusion of the many.

In this, demands by Constitution-makers from the smaller states were used to achieve successful outcomes for Constitution-makers, who would not distinguish between the greater good of the middle-class and the greater good of all Australians. This was particularly so after the bitter and acrimonious industrial confrontations between Labour and Capital during the early-1890s. A fear of the working-classes winning political power via the ballot box saw the Constitution-makers deliberately contrive a very limited democracy for the new Australian nation. The citizen was absent from the polity. Nothing was written into the constitution concerning the obligations and rights of

the political agent. A rigid, restrictive and almost unchangeable constitution was the perfect tool to protect middle-class hegemony.

Further, what is striking in both anti-Deakinite and Deakinite accounts is the lack of, or complete absence of, an in-depth analysis of several important issues. Deakinites maintain that the vagaries of class have never permeated Australian society, one that is defined by a spirit of egalitarianism, equality and fairness. Although anti-Deakinites quite clearly tell stories of class, many have focused on the working class in isolation, rather than considering the relationship between the middle-class and the working class, along with the environment from which this relationship arose.

Deakinites, as noted, tell stories of the inclusiveness of the federal compact. Anti-Deakinites generally disagree with this viewpoint and have highlighted some of the voices that were ignored and silenced during and after the Conventions. Surprisingly, Deakinites give little or no coverage to these. The exclusion of several gifted men from Convention committees because of jealousy, envy, or sheer bloody-mindedness is something that should be included in any account of constitution making. For too long, Fin Crisp was the solitary figure in bringing these dissenting voices back into the public sphere. In more recent times, Peter Botsman has reinforced and built upon Crisp's earlier work.

Perhaps the greatest omission from both Deakinite and anti-Deakinite accounts is an analysis of the actions of several influential Constitution-makers in the industrial confrontations of the 1890s. There are scattered references in several accounts to the involvement of Barton, Dibbs, Griffith or McIllwraith in these confrontations, yet little coverage is given to how this might have affected the debates and outcomes at the Conventions. Although some commentators have written about class, the exclusion of dissenting voices from the federation movement and the involvement of several

Constitution-makers in the industrial confrontations of the 1890s, no-one has analysed these in relation to the other.

Contrary to the arguments presented in Chapter 3 of this thesis, Deakinites continue to argue that Australia has never suffered the vagaries of class. What they fail to acknowledge are the conspicuous inequalities in the economic, political and social institutions that had been put in place in each of the colonies, as examined at length in Chapter 4. Further, if working-class people had confidence in the institutions put in place by the middle class, and if the working class had faith in middle class parliamentarians fairly representing their interests, it is doubtful that the working class would have felt the need to pursue political representation of their own. With colonial labour parties combining after federation to form the Australian Labor Party, and with opposing political parties becoming known as anti-labour, it is difficult to contend that the new Australian nation had not formed along class-based lines.

That John La Nauze, Helen Irving, John Hirst, Brian Galligan or Bob Birrell can claim that the journey to federation was one of inclusiveness is fanciful. If they had paused to look at the industrial confrontations of the 1890s and the way in which employers and the state combined to destroy working class institutions that had been built up since the 1860s, they would have arrived at different conclusions. That Deakinites continue to lionise several Constitution-makers who were directly involved in these confrontations is astounding. No reasonable commentator could believe that these men could have acted impartially after having called out the troops or devised other methods, often in association with the auspices of the state, to quell the actions of striking workers. Yet this is the implication of Deakinite accounts.

Inexplicably, neither Deakinites nor (most) anti-Deakinites acknowledge that all of the Constitution-makers were middle class men. Few analyse how the middle-class

sensibilities of these men could have affected decision-making at the Conventions. That the working class were not represented at the Conventions, is also of little consequence to Deakinites. John La Nauze, perhaps the most insightful of writers on constitution making and the Constitution-makers, believed that 'no great significance can be attached to the professions or occupations' of those who attended the Conventions, suffice to say, 'they were all middle-class men'.⁶²⁷ Too many commentators seemingly accept the prevailing orthodoxy: that Australia has always been a classless society and that decisions taken at the Conventions were taken with the greater good in mind. This line of thinking is far too simplistic, rendering many accounts of constitution making implausible.

My role, as I saw it, in writing this thesis was to contribute to a more complete account of the federation movement, to fit another (original) piece to the jigsaw of Australian constitutional history. This has been achieved, I believe, for two reasons. Initially, included in my thesis are accounts of several issues that are missing from many other constitutional histories. Class in Australia, dissenting voices at the Conventions, exclusions from the federation movement, and the involvement of several influential Constitution-makers in the industrial confrontations of the 1890s, are analysed at length. Secondly, and more importantly, unlike both Deakinite and anti-Deakinite accounts, in this thesis, these issues are studied in relation to each other.

⁶²⁷ La Nauze, *The Making of the Australian Commonwealth*, pp 32 and 104.

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