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Divided we stand:
Political reflections on the Federal experiment

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Let me start this evening by acknowledging the Ngunnawal people, the traditional owners of the land on which we meet. And part of a people, by the way, who were colonised, federated and Australianised without either consultation or consent.

Thank you, Professor Makkai, for your introduction. And welcome to the ANU – one of the genuine and rewarding fruits, along with the ABC, of Australian federalism. There might be more, but they don't come immediately to mind.

I had to think carefully when invited to give this lecture as it has been my experience over a long time that the issue of federalism when up for discussion acts like the full moon: it brings some very strange characteristics and proclivities to the fore, characteristics (or even obsessions) that are usually carefully concealed behind perfectly respectable, suburban facades.

I plan this evening to live up to that; I hope I shall not disappoint you.

First, some disclaimers are in order, I think.

Lawyer I am not, and in making this clear I intend no disrespect to our generous and civic-minded hosts and sponsors tonight.

Neither am I an economist – but I don't feel it necessary to apologise for that. (I can promise you no talk of vertical fiscal imbalance or fiscal equalization).

I mention these things that I am not for the simple reason that this talk tonight has little or nothing to do with arcane legal argument nor economic formulae which figure somewhat prominently in the discourse on federalism.

This is an unashamedly political – in the broadest sense – reflection of what I have called our federal experiment. An experiment because we do not yet

know how it will end up, what shape it might take in the future, how it might adapt or evolve.

It is, and remains, very much a work in progress.

And one more disclaimer is in order. I am favourably disposed, as will become clear, towards the States, but in no way do I consider myself – and this not a term we hear much these days – a states' righter: a category that has, I think, and not without justification, a certain ratbag quality to it and one that has, over the years, proved to be a last refuge for many a political scoundrel.

Some years back I attended a conference organised by the former Labor MP for Eden-Monaro, Jim Snow, who was involved in a movement called Shed a Tier which was aiming to garner support for a reduction in the levels of government in Australia from three to two.

I told Jim I was interested in giving a paper at his next conference as I had some strong ideas on the subject, and he said he would gladly accommodate me. What were my ideas, he asked? Getting rid of the Commonwealth, I replied.

Jim, an affable man, stared at me for a few seconds, the smile having faded from his face. "I see," he said after a while. "That's a novel proposition."

Six or seven years later, I am still waiting for that invitation. It never arrived for the simple reason that Shed a Tier had already identified the level of government it aimed to shed – the States.

In a similar, though not nearly so tendentious a manner, Griffith University's federalism project at its admirable socio-legal centre, is engaged in some fascinating and ground-breaking research probing and analysing public attitudes towards a range of possible alternatives to the current federal structure, notably the inclusion of regions – but none of the permutations canvassed to date includes shedding or even downsizing the Commonwealth. (But I am now assured that will be rectified – and I look forward to that data).

To eliminate or reduce the Commonwealth, of course, would not be easy; but nor would removing the states. And we have yet to see just how difficult becoming a republic will be, even if we vote yes in a future referendum.

Tonight, I want to invite you to imagine an Australia without the Commonwealth colossus that sits uncomfortably and intrusively upon our creaking system of government, and in doing so I want to question the notion of inevitability that somehow, and quite illogically, pervades historical discussion of the Federal experiment.

Let me frame the discussion this way: Could there be an alternative parallel universe in which we have no national government or, if we do have one, that it is a very different beast from the all-devouring monster created unwittingly - or one might even say, witlessly – by the colonies in 1901?

The basis for my argument tonight is that we are a socially and economically diverse people with diverse needs, and that local identification – be that town, city, region or state – is a powerful factor in the kaleidoscope of multiple identities we assume under the rubric of Australian.

I will add a further dimension to that argument – and one that assumes greater and more critical significance the further one moves away from the axis of concentrated power constituted by the Sydney-Canberra-Melbourne beltway. And that is that the idea of the Commonwealth remains an abstraction for many Australians despite the concerted attempts to revive ANZAC and shroud Australia Day in an ersatz solemnity to say nothing of prime ministers who exploit the national flag and other symbols for nefarious political purpose.

Living in the beltway, and especially so in Canberra, we tend too easily to forget that in day to day activities, it is still the State government with which the citizen will most likely come into contact. It is the States which provide social goods and services rendered in *kind*, as distinct from those of the Commonwealth which are nearly all provided in the form of *money*. The relationship, therefore, between the people and the respective tiers of the Federal system is qualitatively different, and this tends also to shape perceptions.

Finally, by way of introduction, I shall look at the tensions inherent in our governance arrangements – not just the usual one of conflict between centripetal and centrifugal forces but that between the liberal and democratic elements.

Tonight I shall offer a number of questions for consideration:

- Was Federation really necessary?
- Was Federation foisted on us by concealed self-interest?
- And was there really such popular support as we are led to believe?

For whose benefit?

But first I want to look at an issue – and I think an important issue – about which we still know far too little: what was it that really drove Federation? Who stood to benefit from such a development?

The French have a most useful phrase which has found its way into English: *cherchez la femme*. The literal translation is "look for the woman", and is used when a man behaves unusually or gets into a quarrel or other difficulty and the reason for it is sought. 'Look for the woman' expresses the idea that behind a problem in question there is a woman.

If I might dare to paraphrase from the author of *The Count of Monte Cristo*, can I suggest *cherchez l'intérêt personnel* – look for the self-interest.

The real question that this leads to in relation to Federation is to ask: did we jump or were we pushed?

A flag of convenience

Just when the idea of union of the diverse and scattered settlements in the Antipodes first arose is not at all clear, but it does appear to date back as far as the 1840s.

The form of federalism, that was to provide the vehicle for union, was a very fashionable concept in the latter half of the 18th and throughout the 19th century, having appeal both for peoples who resorted to force to win their independence, such as the United States and South America, as well as for those who travelled the constitutional route to political autonomy, as in Canada and Australia.

The wide appeal of a federal form of government may be gauged by the diverse enthusiasm emanating from such disparate writers as Montesquieu, Rousseau, de Tocqueville, Madison and Proudhon.

But Australia did not derive from political theory (even though its ultimate constitutional form was shaped by it); nor did it begin heroically in revolution; there was no cry of “give me freedom or give me death” preceding the birth of the Commonwealth; no prolonged struggle or craving for independence.

We were not born of an ideal; there was no great principle at stake.

It was, as Manning Clark tells us, all a matter of “convenience”. Those who advocated it were impressed by its “convenience”; those who opposed it did so on the grounds of a different notion of “convenience”.¹

Indeed, Sir Edward Deas Thomson, a bureaucrat, administrator and sometime Colonial Secretary in NSW, is often credited with first alluding to an idea ahead of its time in the NSW Legislative Council, of which he was an appointed member, in 1846,² and his call a decade later for a Federal Assembly. He has even been hailed as “*par excellence* the Father of Australian Federation”.³

No swashbuckling Garibaldi was he, nor was he a Washington or even a Franklin. He was the Scottish-born son of the accountant-general in the Royal Navy, and the *Australian Dictionary of Biography* entry on him informs us that “he assisted his father in the Navy Office in a variety of ways, including the

¹ C. M. H. Clark, *Select Documents in Australian History 1851-1900*, Sydney, 1955, p. 443.

² *Sydney Morning Herald*, 11 September 1846, cited in Clark, *Select Documents*.

³ Quoted in A. J. Brown, 2003, “One Nation, Two Federalisms: Rediscovering the Origins of Australian Federal Political Ideas”, paper delivered at Australasian Political Studies Association Conference, University of Tasmania, Hobart, 29 Sept-1 Oct.

introduction of double entry book-keeping".⁴ He was regarded as the very model of a Crown servant – a public servant's public servant.

Deas Thomson is perhaps a fitting progenitor. Australia was born not from the slash of the rapier, nor from the overthrow of tyranny, nor even from a mild defiance of Imperial authority, and certainly not from any revolutionary zeal: its origins lay in the flourish of a clerk's pen.

That rather makes Canberra, in a way quite unintended by the Founding Fathers, a fitting national capital. (Perhaps we need also to add St Nicholas, the patron saint of clerks, to our coat of arms.)

But, then, Australia's clerical origins might not have been all that great a departure from the practices that prevailed in – or indeed, ruled – the mighty 19th century British Empire.

It was that great iconoclastic Victorian liberal politician and later Chief Justice, George Higinbotham, who memorably complained that his colony, and the other Australian colonies, were of so little consequence to the powers in London that they had become the private playthings of minor officials, and self-government counted for nothing. He went so far as to state:

I believe it might be said with perfect truth that the million and a half of Englishmen who inhabit these colonies, and who during the last fifteen years have believed they possessed self-government, have been really governed during the whole of that time by a person named Rogers. He is the chief clerk in the Colonial Office.⁵

The proposal for a federal constitution found its way into the first draft of the Australian Colonies Government Bill in 1849, but was omitted from the final Bill, as Lord Grey explained to the House of Lords in 1850, not because there had been any change in feeling on the part of the Government but (in his words)

simply on the ground that on looking into those clauses, it certainly did appear ...that there were many defects in the machinery which would have prevented them coming into practical operation...⁶

In other words, it was inconvenient.

In 1857, the newly created Parliament in Victoria heard from a Select Committee it had set up to report on the Federal Union of the Australian Colonies, and the members were unanimous in recommending a system of mutual action and co-operation among the colonies.

⁴ M. E. Osborne, 'Thomson, Sir Edward Deas (1800 - 1879)', *Australian Dictionary of Biography*, Volume 2, Melbourne University Press, 1967, pp. 523-527.

⁵ Victoria, *Parliamentary Debates*, Legislative Assembly, 2 November 1869.

⁶ Quoted in *ibid.*, p. 445.

Their interest suffers, and must continue to suffer, while competing tariffs, naturalization laws, and land systems, rival schemes of immigration, and of ocean postage, a clumsy and inefficient method of communicating with each other, and with the Home Government on public business and a distant and expensive system of judicial appeal exist...⁷

The worthy committee members looked at history and concluded that 'neighbouring States of the second order inevitably become confederates or enemies'. In other words, the choice was between joining hands or taking up arms.

But these words of warning were little heeded in the decades immediately after, and inter-colonial rivalry reached a peak in the 1860s and 1870s. While disputes over customs duties, railway police and waterway management flared from time to time, there was never any danger that a shot might be fired in anger.

It is likely that those worthy committee men in Victoria had looked at the United States where throughout the early 19th century, New York and New Jersey waged many a dispute over their valuable, shared harbour and waterways. One dispute over the boundary line through the harbour and the Hudson River - settled by the Treaty of 1834 - once led state police to exchange shots in the middle of the river.⁸

And it needs to be noted that this particular dispute – with real guns and live bullets, not mere political rhetoric – was long after the colonies had united in a federation so, quite clearly, enmity and federal fraternity were by no means mutually exclusive.

But even the dramatic framing of the stark choice between fraternity and enmity has proven to be unfounded. Australia and New Zealand, neighbouring states of the second order (or possibly third in the case of the latter) chose not to federate, but neither did they take up arms apart from some fierce encounters on the rugby field and an underarm ambush on the cricket field. That they share a powerful common mythology in ANZAC rather puts paid to the notion of one or the other, but nothing in between.

There is nothing to suggest that independent former colonies, unfederated, would be any different in their everyday relations from the relationship that exists today across the Tasman: time-honoured, unthreatened, robust and enduring. Indeed, it might also be argued that New Zealand's admirable independence in foreign policy would not be possible were she to be

⁷ Report from the Select Committee upon the Federal Union of the Australian Colonies, pp. 3-5, *Votes and Proceedings of the Legislative Assembly of Victoria*, 1856-7, Vol 3, in Clark, *Select Documents*, pp. 445-6.

⁸ The Port Authority of New York and New Jersey, 'History of the Port Authority', <http://www.panynj.gov/AboutthePortAuthority/HistoryofthePortAuthority/>

encumbered with Australia's traditional baggage and historical subservience in that regard.

But back here in Australia and in the 19th century, we had a series of fits and starts on the union issue - and fits far outnumbered starts.

And why was this?

It was simply because there was no popular support for such a move; there was no attempt at garnering popular support either.

And when the issue did begin to gain traction it was cultural rather than political. The idea of being "Australian" began to be celebrated in songs and poems. This was fostered by improvements in transport and communications, such as the linking of the colonies by telegraph in 1872.

Henry Parkes, as colonial secretary in NSW, had first proposed the formation of a Federal Council in 1867, but the Imperial authorities rejected it. He again proposed it as Premier in 1880 and a conference ensued, but it took a third attempt to finally achieve agreement for such a council in 1883, and the Imperial Parliament legislated it into existence in 1885⁹ – but NSW, for political reasons, did not join.

Enter Major-General James Bevan Edwards, career soldier, veteran of the Crimea, the Indian Mutiny and General Gordon's "Ever-Victorious Army" in China. He was the man chosen by the British Government, following a recommendation of the Colonial Conference of 1887, to inspect the military forces of the Australian colonies and to advise on their organisation. Unsurprisingly – for the military mind inclines not towards pacifism - he found the colonies less than prepared – but his conclusion was reached on questionable grounds. He recommended, among other things, uniform organisation and a common Defence Act. He wrote:

Looking to the state of affairs in Europe, and to the fact that it is the unforeseen which happens in war, the defence forces should at once be placed on a proper footing; but this is, however, quite impossible without a federation of the forces of the different colonies.¹⁰

Quite apart from the fact that his frame of reference was Europe, which was not in a noticeably belligerent state at the time, General Edwards, fresh from a posting in Hong Kong (and quite possibly aware of lingering goldfield sentiments in Australia) also suggested that the Australian continent was vulnerable to Chinese attack.¹¹

It was something with which we have become regrettably familiar in Australia – a scare campaign.

⁹ *Federal Council of Australasia Act 1885*.

¹⁰ A. J. Hill, 1972, 'Edwards, Sir James Bevan (1834-1922)', *Australian Dictionary of Biography*, Vol. 4, Melbourne University Press, p. 130.

¹¹ De Garis, 'How popular was the Popular Federation Movement?'

Radicals dismissed Edwards as a “political tout” – a not unreasonable label for an Imperial man through and through who was on his way to the governorship of Hong Kong which led to a stint as a Conservative MP in the House of Commons. But his report provided the pretext for Sir Henry Parkes who seized on it – as laughable as it was in terms of both actual and potential threats – to reignite federal proposals after a failed attempt to work with Alfred Deakin in Victoria on a proposal. Edwards later claimed that Parkes “saw at once that combined action for purposes of defence was impossible without a Federal Government...”¹²

How popular was popular support?

The popular histories tend to suggest that there somehow arose in the final decade of the 19th century a clamour for union, as spontaneous as it was irresistible.

There was a clamour – a noisy clamour, but it was nowhere near the popular epidemic that is sometimes portrayed.

You don’t have to dig very far to find that the clamour emanated from a group that Mr Howard would have described as a noisy elite – the chattering class of the day.

These were, in the main, politicians – but they had a problem as the first attempt at federation – the 1891 conference – was one that traversed the parliamentary track and faltered. Other issues, like Depression, intervened; local jealousies and rivalries were aroused; it lost what momentum it had gained.

Popular history tells us that “the people” seized the torch from the ineffectual and bickering politicians and carried the day triumphantly. This was the view put by Sir Robert Garran, in his memoirs penned some six decades later, when he wrote that the federal cause had been “left for dead by the politicians” but was “brought to life by the people”.¹³

But a closer scrutiny of events by later historians has shown it was never quite as simple as this; nor was it ever really the case.

The formation of federation leagues – most purporting to be spontaneous grassroots eruptions, but what we might now call an Astroturf outbreak – the organisation of conferences, and a steady stream of pro-federation propaganda in the press were, as Brian de Garis has observed, “in most cases initiated by politicians, though they often worked deliberately behind the scenes.”¹⁴

¹² A. J. Hill, (“Edwards, Sir James Bevan).

¹³ Robert Garran, *Prosper the Commonwealth*, Sydney, 1958, p. 101.

¹⁴ Brian de Garis, 1993, “How Popular was the Popular Federation Movement?” *Parliament and the Constitution: Some Issues of Interest*, Department of the Senate, Canberra, (Papers on Parliament, No 21).

As William McMillan wrote to Sir Henry Parkes in 1893, with the federal push mired in grubby politics:

I have seen Mr Barton and I have urged the necessity of making this movement a citizens' movement.¹⁵

And indeed Barton did just that – but a citizens' movement that danced to a politically orchestrated tune, and he and his confreres were the conductors.

Barton was busy setting up Federation Leagues, and his missionary zeal saw some 15 established in the strategic Riverina region in the first few months of 1893.

De Garis quotes a key lieutenant writing to Barton in June 1893 that

all we want is an Organisation and a Program. At present we are running about looking for an enemy, like a lot of new recruits, and tumbling over each other: we want a General to map out a plan of campaign.¹⁶

A fortnight later the same correspondent wrote again in a more urgent tone:

Tell us *what we are to do* in order to bring about the desired result.

In Stuart Macintyre's memorable description, he marvels at the way this conception of politics involved an act of ventriloquism. He writes:

The politician, having impugned his calling, has to call forth a voice that can restore its legitimacy. He instates the people as a disembodied presence capable of an altruism that he and his colleagues can never achieve. The people are inscribed as citizens, owning no class distinction or party loyalty. They speak at his command and then fall silent as the business of government is subsumed into the Commonwealth that the politicians bring into being.¹⁷

There were, in fact, many reservations; there was also a great deal of apathy. In some outlying parts there was downright hostility, with Winthrop Hackett complaining to Barton from Perth in 1891 that public feeling against federation "amounts to absolute frenzy". Some six years later a former federation activist from South Australia who had moved to Western Australia reported that

¹⁵ McMillan to Parkes, 21 June 1893, quoted by de Garis, 'How Popular was the Popular Federation Movement?'

¹⁶ Wilson to Barton, 30 June 1893, quoted by de Garis, 'How Popular was the Popular Federation Movement?'

¹⁷ Stuart Macintyre, 1998, "Corowa and the Voice of the People", in David Headon and Jeff Brownrigg, 'The People's Conventions: Corowa (1893) and Bathurst (1896)' *Papers on Parliament* 32 (Special Issue)

people there were interested in nothing but making money.¹⁸ Some things never change.

We are always told how the vote to join was so overwhelmingly in favour – a thumping majority of 2.5 to one.

But what is seldom looked at is the turnout to vote in the final ballot in 1899 – at a time when voting was entirely voluntary.

When we compare this to the nearest colonial elections, where voting was similarly voluntary, we see quite a different picture reflected in the turnout (although the comparison is slightly distorted by plural voting still applying in Tasmania, Western Australia and Tasmania, but not in the vote on Federation).

Table 1. Turnout on Commonwealth of Australia Constitution Bill Referendum 1899

Colony	% of eligible voters
NSW	63.39
VICTORIA	56.29
QUEENSLAND	64.78
SOUTH AUSTRALIA	54.44
TASMANIA	36.48
WESTERN AUSTRALIA	67.13

Table 2. Turnout at nearest colonial parliamentary election

Colony	Year	% of eligible voters
QLD	1899	79.1
VIC	1900	62.5
NSW	1898	60.6
SA	1899	62.9
TAS	1900	64.8
WA	1901	46.1

¹⁸ Quoted in de Garis, “How Popular was the Popular Federation Movement?”

Table 3. 'Yes' voters as Percentages of Electors Qualified to vote

Colony	1898 Ref.	1899 Ref.	1900 Ref.
NSW	23.2	35.8	-
VIC	38.8	52.9	-
SA	26.3	43.3	-
TAS	-	34.5	-
QLD	-	35.9	-
WA	-	-	46.6
All Colonies	30.1	42.9	

Source: L. F. Crisp, *Federation Fathers*, p. 149

Table 4. 'Yes', 'No' & 'Don't care'

Colony	Yes	No	Don't care
NSW	35.8	27.6	36.6
VIC	52.9	3.4	43.7
SA	43.3	11.2	45.5
TAS	34.5	2.0	63.5
QLD	35.9	28.9	35.2
WA	46.6	20.5	32.9

Source: C. M. H. Clark, *Select Documents*, p. 517.

This is not exactly a stampede of popular sentiment. Now admittedly there were no parties working to get the vote out, but even so these figures show quite clearly that there were more people who either opposed or were indifferent to the idea than there were in favour of it.

Who were the movers and shakers?

Who were the movers and shakers in this Federation process? How representative of the Australia of the day were they?

In a cryptic but nevertheless telling remark, Edmund Barton drew an interesting distinction when speaking at Sydney Town Hall on the federation issue, observing that on any issue there were two aspects: "one was the view of the politician, and the other was the view of the citizen".¹⁹

¹⁹ Quoted in Macintyre, "Corowa and the Voice of the People".

They really were a different caste. By 1891, approximately two-thirds of Australians were native born,²⁰ but no such proportion was represented in the parliaments, and certainly not at the Conventions in the 1890s.

Of the 42 Australian delegates to the 1891 Convention, 17 were born in Australia (not even half), 24 were born in the British Isles, and one on the Isle of Man. All of the Australian-born delegates were of British descent.

And of course women were conspicuous by their total absence in either the parliaments or at the Conventions of 1891 or 1897-98.²¹ Catholics, also, who constituted a sizeable minority of around 23 per cent of the population, were grossly under-represented at the final Convention, there being only two of their number: Glynn of South Australia and O'Connor of New South Wales.²² And the original inhabitants were politically invisible.

The Labor Party was on the rise in the 1890s, but only one Labor delegate attended the 1898 Convention – Billy Trenwith from Victoria, and that was mainly because David Syme, the liberal king-maker, included Trenwith's name on a ticket of the 'Liberal Ten'.²³ (It is worth noting here that while Labor was drawing around 12 per cent of the vote in elections in NSW and Victoria, it was up to 36 per cent in Queensland and 25 per cent in Western Australia and South Australia. It was an unheard voice at the Conventions, and while Labor was by no means united on the issue, a recurring Labor view at the time was that federation was a distraction from the real issues).

Occupationally, the decision-makers were scarcely a cross-section of contemporary Australia. For example, the New South Wales delegates to the Federal Convention, elected in 1897 to draft an Australian Constitution, were typical of the Convention as a whole: of the ten delegates, nine were politicians (the pretence of a citizens' movement now conveniently discarded) and six of those were lawyers. The tenth delegate was a banker.

A visitor to Australia at the time cast a critical eye over the team assembled to create a nation, and he described their handiwork as "a lawyer's and a fatman's bill." This was Ben Tillett, a socialist and leader of the British dockers' union, who was well acquainted with the bitter industrial disputes in Australia in the 1890s. He warned in ominous terms what this Bill would mean for workers.

Guard well your liberty; remember the fightings, the imprisonment, the police, the bludgeonings of the past...and beware lest you give these

²⁰ Brian Fitzpatrick, *The Australian People 1788-1945*, Melbourne, p. 227.

²¹ J. A. La Nauze, 1972, *The Making of the Australian Constitution*, pp. 328-33; L. F. Crisp, 1990, *Federation Fathers*, pp. 376-81.

²² Fitzpatrick, *The Australian People*, pp. 230-1.

²³ Fitzpatrick, *The Australian People*, p. 231.

dearly won liberties to those who will be the parasites of the future, robbing you of your political, economical and social rights...²⁴

Clearly, much organising work had gone into the process of moulding public opinion. There was much talk about the need to foster patriotic sentiment; parents and teachers were told of their duty to instil into children a pride in Australia and all things Australian. There was also a corresponding fashion for distinctively Australian motifs in popular culture and décor, but it had, as Richard White has pointed out, an underlying commercial purpose: it was associated with the increasing significance of local manufacturing. It was not only about promoting consumption; it was about protection.

Patriotism, carefully orchestrated, served to protect local manufacturers and their workers from outside competition. Hence we had at the turn of the century, a market for patriotic Australians awash with Coo-ee cheese and tobacco, Boomerang brandy and explosives, Kangaroo-brand cycles and desiccated potatoes.²⁵ It also sought to construct a sense of national identity that blurred or even denied class divisions.

But while this sentiment was being constructed, work was also taking place on the political machinery, and the goal of a federated nation was increasingly portrayed to the public as not only the logical and natural outcome of this new spirit, but also the most desirable.

The late Allan Martin, almost six decades ago, cast a sceptical eye over the “sudden development” in the 1890s of the popular Federation movement, and he identified what he called “a quite intense propaganda campaign” on the part of three separate organisations in Sydney.²⁶ One of these, the Central Federation League, published the names and occupations of its executive members, whom Martin divided into two groups.

Class A, numbering 53, comprised men of no recognisable interest group. These were mainly professional men with large legal and medical elements.

Class B, numbering 73, identified strongly with commerce and manufacture; land, building and investment companies; insurance companies, banking; and the pastoral industry.

A further breakdown of this second group is even more revealing.

- (i) Merchants (13), manufacturers (13), shipping interests (5).
- (ii) Land, building and investment (18).
- (iii) Insurance and banking (24).²⁷

²⁴ Jerome Small, 1999, ‘Forging the Nation: from the “Fatman’s Federation” to the “Politicians’ republic”’, *Socialist Alternative*, Edition No 39, December.

²⁵ Richard White, 1981, *Inventing Australia*, Sydney, p. 114.

²⁶ A. W. Martin, 1949, ‘Economic Influences in the “New Federation Movement”’ *Historical Studies Australia and New Zealand*, Vol. 4, No 13, November, p. 64.

²⁷ Martin, ‘Economic Influences’, p. 66

Their coming together and their aims, as Martin suggests, represents a conscious realisation of the economic advantages of federation, and not through some other motive or sets of motives, such as idealism, social progress or defence.

One significant event all too often overlooked on the road to Federation was the Depression and the subsequent bank crashes of the early 1890s, themselves a product of the speculative boom of the 1880s, mostly in land and fuelled by British investment.

British investment had already shifted its focus to Argentina and South Africa, but the collapse of Barings Bank in 1890, largely over failed investments in the former, led to investors taking a closer interest in possible structural weaknesses in all developing countries. The main Australian colonies, with their considerable budget deficits and heavy public works spending, were cause for concern,²⁸ and the bank failures of 1893 merely reinforced this concern. Moreover, the differing approaches to the crisis in Sydney (largely successful) and Melbourne (mostly unsuccessful) only added to concerns about investment in the colonies.

It was noted that the Australian banking system simply did not have the institutional mechanisms to bail out troubled banks, and the absence of a lender of last resort was commented on by several English bankers at the time.²⁹ As *Bankers' Magazine* in 1893 commented:

The Australian banks do not possess, as those in this country do, a great central institution from which sources of supply in the form of legal-tender may be obtained...the advantage of a central bank, equipped as the Bank of England is, is of great service in time of pressure.³⁰

Indeed, a prominent Sydney banker, Barton Lodge, director of the Sydney Joint Stock Bank, was blunt when he stated in 1899 that

the federation of the Australian colonies would meet, and finally settle, the difference of opinion that now exists between us and the English capitalist.³¹

In Western Australia, powerful London commercial interests were hard at work in the Federation cause. English investors had pressed the West Australian government to amend its mining regulations, notably in regard to labour conditions and lease provisions, and it was the prospect of escaping from the Forrest government that led English investors to wholeheartedly support Federation. For this reason, London capitalists sent considerable sums of money to the Coolgardie Chamber of Mines to finance the federal

²⁸ Charles R. Hickson and John D. Turner, 2002, 'Free banking gone awry: the Australian banking crisis of 1893', *Financial History Review* 9, pp. 146-67.

²⁹ Hickson and Turner, 'Free banking gone awry', p. 165.

³⁰ 'Some lessons of the Australian crisis', 1893, *Bankers' Magazine*, 56, p. 657

³¹ Quoted by Martin, 'Economic Influences', p. 68.

movement and at least £400 went to the West Australian Federal league in Perth as well as other sums to branches on the goldfields.³²

This, I suggest, goes a long way to explain the separatist movement at the time in the Eastern Goldfields.

If the investment could be measured in terms of the Yes vote in the West, then it paid off handsomely.

Table 5. Referendum Result, Western Australia, 1900

	Yes	44,800		
	No	19,691		
			Metropolitan	Country
	Yes	11,695		6,775
	No	7,521		10,357
				Goldfields
				26,330
				1,813

Source: Crisp, *Federation Fathers*, p. 389.

The goldfields capitalists might not have achieved all they wanted, but the banking interests got their dividend (which should surprise nobody). As Humphrey McQueen puts it:

To regain its attractiveness to investors, Australia's financial markets had to become more secure: bank failures led to a consolidation of domestic financial houses; section 105 of the Commonwealth Constitution offered to underwrite public debts.³³

That fiery orator, and later Premier of South Australia, Tom Price, worried that federation was being foisted on a people who had yet to grasp what it meant, and he pointed to the low attendance at campaign meetings and the low vote turnout. He saw Federation in league with British Imperialism and with an objective essentially for the wealthy.

The Federal question is nothing but a commercial movement from beginning to end.³⁴

If we peer behind the rhetoric and the sentiment leading up to Federation, we see a clear strategy being pursued and this is evident from Sydney to Perth (and even in London), and that is the creation of a single, unified market. (The market is the cake, the nation merely the icing).

³² John Bastin, 1951, 'The West Australian Gold Fields, 1892-1900: The Investors and Their Grievances', *Historical Studies Australia and New Zealand*, Vol. 38, pp. 282-89.

³³ Humphrey McQueen, 1986, 'Afterword to the 1986 edition of *A New Britannia*', Sydney.

³⁴ Crisp, *Federation Fathers*, p. 149.

A prominent Federation League activist in Sydney and later president of the NSW Chamber of Manufactures, J. P. Wright, was adamant that Federation and the interests of manufacturers were the same thing.

Commerce will, as far as federated Australia goes, be as free as the air; manufacturing establishments will be able to circulate their products without obstacles or hindrance.³⁵

This quest for a single market, I suggest, links directly to much of John Howard's rhetoric and actions over the past decade in his war against the states and his casual dismissal of State interests or even State identity.

And I want to pose the question here, just whose interests were being represented by the push for federation. If Mr Barton and his ilk were orchestrating the citizens' dance, to whose tune were they themselves dancing?

Political culture

We might argue with some logic that the States are nothing more than arbitrary lines on a map, which they are. But within the confines of those arbitrary lines, there have developed quite distinctive social and political cultures, and these were clearly in evidence at the time of federation.

The Liberal Party, for example, in NSW is a very different beast from that in Victoria. Much Sydney liberalism derives from the Free Trade doctrines of Reid, whereas Victorian liberalism, at least that of Menzies and Fraser, derived from Deakin. John Howard could not have emerged from anywhere but Sydney.

A former Liberal deputy leader, Neil Brown, has recounted how as a young backbencher he visited London as John Gorton's prime ministership was starting to seriously unravel. At a meeting with former Menzies minister, Sir Alexander Downer, then High Commissioner, Downer anxiously inquired about Gorton's troubles. "You must promise me one thing, Mr Brown. Never let the Prime Ministership fall into vulgar, Sydney commercial hands."³⁶

The colourful and recently-exhumed Charles Kingston could not have been anything other than a South Australian, just as Deakin, Reid and Forrest represented in many ways their colonies writ large.

In contemporary times, could Don Dunstan have been anything but a South Australian? Could Bjelke-Petersen have come from anywhere but Queensland? Or Henry Bolte from Victoria?

³⁵ Quoted in Martin, 'Economic Influences'.

³⁶ Neil Brown, 1993, *On the Other Hand...Sketches and Reflections from Political Life*, The Poplar Press, Canberra, p. 58.

Regionalism is something of which we shall hear more – and it is destined, I think, to play a larger role in our evolving federalism – but again, it is more an administrative device than a new or alternative identity.

At least States have legally recognised lines on the map. But where do regions start and end? Who is in and who is out?

I am reminded of a speech in that bear pit, the NSW Legislative Assembly, at a time when NSW and Victoria were having yet another pre-Federation tiff, and the Victorian Premier of the day had dared to speak of a common interest between his colony and the people of what he called the Riverina. A certain Mr Cameron was scornful:

We knew no such part of the world...There was no such place as the Riverina. It was a name given by Victorian boss cockies to a place which, when they came over to this colony, they tried to grasp.³⁷

In more recent times, the last attempt at creating a new State, as the Constitution thoughtfully provides, failed because of an admittedly skewed definition of what constituted the potential new state.

That very canny politician, Bob Askin, who had won an election for the Liberal Party in NSW in 1965 after 24 years of Labor rule, well knew of separatist sentiments in the north of the state and he promised a referendum should he win government. The referendum was duly held in 1967 and might well have succeeded had not Askin thoughtfully included Newcastle in the region – a gesture promoted as giving the new state a ready made capital, but in political fact ensuring adherence to Sydney.

What might have been

Earlier I asked you to try to imagine an Australia without the Commonwealth.

In a parallel universe somewhere, there might well be five or six vibrant and diverse nations; New Zealand might also be there; Tasmania and South Australia might have joined forces for economic reasons or attached themselves to one of the other nations. We might, as a peace-loving and essentially co-operative people, have formed an entity more like the European Union, maintaining diversity but pooling our strengths. And, like the diverse nations of the West Indies, with a single cricket team

An alternative scenario is the minimal Commonwealth, and that is essentially the one envisaged, but which has never been realised – a nation composed of strong, autonomous States, each with its own source of income and broad sphere of responsibility.³⁸

³⁷ Clark, *Select Documents*, p. 457.

³⁸ Robyn Hollander, 2008, 'John Howard, Economic Liberalism, Social Conservatism, and Australian Federalism', *Australian Journal of Politics and History*, Vol. 53, No. 1, pp. 85-103.

Parents do not usually hand over the house-keeping money to the children, yet that is what happened with the creation of the Commonwealth. Tasmania's Edward Braddon, commonly ridiculed as the author of the so-called "Braddon Blot" in the constitution, ensuring that for the first decade most of the Commonwealth revenue returned to the States, was very perceptive. The shame is that it had a sunset clause.

Just think about this for a moment: customs duties formed the major item of revenue in the colonies while the largest item of expenditure was meeting the interest payment on debt, and they were roughly equivalent. But Federation was not going to change in any substantial way the expenditure commitments. So, they lost the revenue but retained the debt.

It was, as the late Bradley Selway, former South Australian Solicitor-General, wrote, based on an assumption that the Commonwealth need for revenue would be so small that much of it would be returned to the States as surplus. Another assumption was that the Commonwealth would act fairly and appropriately towards the States.³⁹ A distinguished former Crown Solicitor of South Australia, Albert Hannan, says the decision to agree to this was hard to understand, much less to excuse. He does, however, offer a simple explanation: the Convention delegates were 'carried away with the enthusiasm and idealism which made them blind to material considerations and probably political tendencies'.⁴⁰

The pro-Federation propaganda campaign was, it seems, more successful than imagined.

It might have been otherwise. I am rather attracted to the idea of the Prime Minister and the Treasurer going, say, twice a year to a meeting of the Premiers and State Treasurers, and putting up a case for funding. I wonder then how many futile and costly military expeditions, for other people's purposes, we would see if they had to be weighed against health care, education and public infrastructure. We might even arrive at a more equitable and democratic definition of the national interest.

On a practical level, let us then make the High Court truly a Federal entity, in spirit as well as letter. It is, in Greg Craven's memorable words, no friend to the States, 'with the Commonwealth-appointed Court basically playing undertaker to Canberra's hit-man'.⁴¹

Instead of the Commonwealth – or rather the prime minister of the day – determining who will fill a vacancy, why not convene a council of the State Chief Justices, perhaps with Attorneys-General as advisers, to nominate a candidate?

³⁹ Bradley Selway, 2001, 'The Federation – What Makes It Work and What Should We Be Thinking About for the Future', *Australian Journal of Public Administration*, 60 (4), Dec:116-122, p.

⁴⁰ Albert Hannan, 1961, 'Finance and Taxation' in R.Else-Mitchell (ed.), *Essays on the Australian Constitution*, quoted by Selway, *ibid.*, p. 120.

⁴¹ Greg Craven, 2005, 'The New Centralism and the Collapse of the Conservative Constitution', Paper presented in Department of the Senate Lecture Series, Parliament House, 14 October.

That would be co-operative federalism.

But I dream on.

How democratic?

I alluded at the start of this lecture to the inherent tensions between the liberal and democratic elements of our system of government and the constitution.

At the time of Federation, Australia was in the forefront of democratic advance: responsible government, a free press, freedom of association, free elections, secret ballot, payment of members, a broad franchise.

We might reasonably have expected a very democratic constitution, but what we got in 1901 was a liberal constitution with a light democratic sprinkling. It was a conservative liberal Constitution, and Greg Craven has called it 'very much a liberal-conservative artefact...the greatest work of Australian conservatives'.⁴² Conspicuously, there is no guarantee of rights.

Is it little surprise, therefore, that primary significance in the constitution is attached to trade and commerce? Overseas and interstate trade was the first head of Commonwealth power in Section 51(i), amplified by Section 98 which embraced navigation and amplified by Section 92 guaranteeing free trade.⁴³

Here again was the single market idea.

The problem here - and I agree with Greg Craven about the character of the Constitution - is that the conservative-liberal mind is uneasy with the idea of democracy; democracy is acceptable only so long as it does not impinge on or interfere with property rights.

To restate an earlier theme, it's all about convenience.

And the beauty of democracy is that it is deliriously and majestically inconvenient.

I argue here that Australian financial interests and British capitalists not only contrived to bring about Federation for the sake of convenience (theirs), but that they also embedded in the constitution provisions that would serve their - not necessarily the people's - interests. (Remember Chifley's bank nationalisation scheme?)

This is why, for example, there was an early provision for legal appeal to the Privy Council, aimed purely at satisfying British commercial interests. Indeed,

⁴² Greg Craven, 'The New Centralism'

⁴³ R. Else-Mitchell, 1983, 'Unity or uniformity?' in Jennifer Aldred and John Wilkes (eds.) *AQ Fractured Federation: Australia in the 1980s*, Allen & Unwin, Sydney, p. 3.

the Australian liberal intellectual and sometime politician and diplomat, Frederic Eggleston, later gave evidence to a Royal Commission stating that the Colonial Secretary in London, Joseph Chamberlain, had refused to countenance removal of the right of appeal in private cases because he said “the big shipping companies and mercantile interests” demanded it.⁴⁴

Further, Britain never really let go: Federation was not independence – and a reading of the Imperial legislation that brought the Commonwealth into existence clearly shows that the Commonwealth of Australia ‘shall be taken to be a self-governing *colony*’.⁴⁵ In other words, six colonies were consolidated into one. Is it really little wonder that the Governor-General was granted those reserve powers? In whose interests were they to be used?

The future

The future of the system will depend on goodwill, itself fragile and often transitory. But we are seeing more of it. The recent water agreement is a case in point.

Increasing co-operation at a regional level by local government is encouraging, and so too are renewed moves to have local government recognised in the Constitution. Will the States, themselves heavily centralised, devolve functions and, more importantly, resources to the local level?

The attacks on the States by Mr Howard and his ministers for purely grubby political reasons attacked the very constitutional fabric of our society, and just as populist premiers in the past have played to the grandstand, they undermined confidence in a system that, while by no means perfect, has served us moderately well – even if it was a mistake.

Thirty years ago we began to see a concerted attack on the welfare state and the public sphere in general as the neo-liberal revolution gathered momentum. The message was Orwellian in its crass simplicity: Public bad, private good.

It is simply unproven that private ownership, especially of utilities, is superior in terms of the public benefit, than public ownership. It is certainly less accountable.

It is, for some, convenient.

The same blowtorch to the belly is being applied to the States, and a none too subtle propaganda campaign is dangerously eroding public confidence. And we have to ask, to what end, and who benefits?

It remains a great pity that these questions were not taken as seriously as they might back in the late 1890s.

⁴⁴ F. W. Eggleston, Royal Commission on the Constitution, 1927-29, *Evidence*, p. 734. Quoted in L. F. Crisp, *Australian National Government*, p. 30.

⁴⁵ *Commonwealth of Australia Constitution Act*, Section 8.

The Commonwealth and its Constitution represented a liberal victory, but of dubious democratic gain. Indeed, it might even be suggested that it was framed to contain democracy.

That battle – between liberal and democratic forces – continues to be a source of tension in our political life, but like the events of more than a century ago, we seldom see the true colours of the key players.

There are lessons here, to be sure, but whether we learn them is another thing altogether.