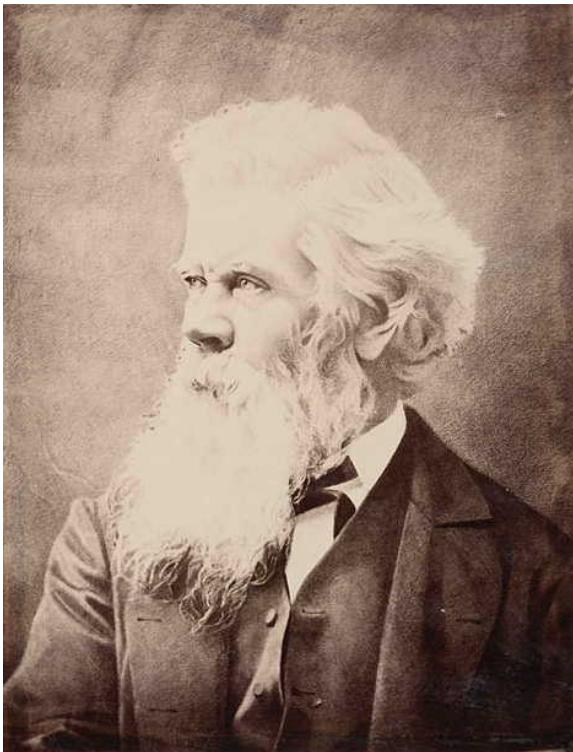


Unit 5: Australian identity, federation and the Constitution including the intentions of the framers – Year 6 - Civics and Citizenship (C & C) Strand: Citizenship, Identity & Diversity

Topic 6.1: How and why the Australian Constitution came to be

The Tenterfield Oration

*Sir Henry Parkes' Federation Call to the People.
Delivered in Tenterfield NSW on Thursday, 24
October, 1889*



Sir Henry Parkes
Source: Wiki Commons

I cannot find words with which to acknowledge your toast to the Ministry and myself, without remembering the time when I stood for a short period in intimate relationships with you, as the Member for Tenterfield. This was one of the passages of my life that is not likely to fade away as I remember how generously you elected me within a few hours of my defeat for East Sydney in 1884. I also remember the generous confidence you showed in refusing to accept my resignation on the occasion of my thirteen month visit to England.

There are two important questions towards which your attention ought to be directed. You must have heard something of the Federal Council, on which NSW has not yet taken a place. It sat in Tasmania and held sessions which never appeared to interest anyone. But if we are to carry out the recommendations of General Edwards on matters military, it will be absolutely necessary for us to have a central authority, which could bring all the forces of the different colonies into one army.

Some colony statesmen have said that this might be done by means of the Federal Council. But this Federal Council has no power to do anything of the sort.

It is not to be an elective body, but merely a body appointed by the governments of the various colonies. Their argument, therefore, is necessarily weak, and under the Imperial Act which appointed it, the Federal Council has no power to set up or control a great Australian Army.

The Federal Council has no executive power. It may propose but not execute. I would like to know what would become of an army without a central executive power to guide its movements.

One way which has been suggested out of the difficulty is that the Imperial Parliament be asked to pass a measure authorising the troops of the colonies to unite in one federal army. But still, even if this were done, there would be an absence of the necessary executive government. The colonies would object to the armies being under the control of the Imperial Government and none of these colonies could direct it.

The great question which we have to consider is, whether the time has not now arisen for the creation on this Australian continent of an Australian government and an Australian parliament.

To make myself as plain as possible, Australia has now a population of three and a half millions, and the American people numbered only between three and four millions when they formed the great Commonwealth of the United States. The numbers are about the same. Surely what the Americans have done by war, Australians can bring about in peace.

Believing, as I do, that it is essential to preserve the security and integrity of these colonies, then the whole of our forces should be amalgamated into one great Federal army. Seeing no other means of obtaining these ends, it seems to me that the time is close at hand when we ought to set about creating this great national Government for all Australia.

This subject brings us face to face with another subject. We have now, from South Australia to Queensland, a stretch of about two thousand miles of railways and if the four colonies could only combine to adopt a uniform gauge, it would be an immense advantage in the movement of troops. These are two great national questions which I wish to lay before you: one great federal army and a nationwide uniform gauge railway line.

I have just returned from Brisbane, and the object of my business has been not to force my advice on the authorities there, but to discuss with them these matters. Unfortunately, owing to the illness of the Head of Ministry, our communications were rather of a private character than otherwise. But without disclosing any confidences, I think that both sides of politics sympathised warmly and closely with the views, which I expressed to them.

As to the steps, which should be taken to bring about the foregoing, a conference of authorities has been suggested but we must take a broader and more powerful action on the initiation of this great council. We must appoint a convention of leading men from all the colonies. Delegates should be appointed by the authority of Parliament and fully represent the opinion of the different parliaments of the colonies. This Convention will have to devise the Constitution which will be necessary for bringing into existence a Federal Government with a Federal Parliament for the conduct of this great national undertaking.

The only argument which could be advanced in opposition to the views I have put forward, is that the time has not come and that we must remain isolated colonies, just in the same way as we are now.



Tenterfield School of Arts where the Oration was delivered
Source: CEFA

I believe, however, that the time has come; and that, in the words of Brunton Stephens, the Queensland poet: - I ask:

*"Not yet her day! How long? Not yet!
There comes her flush of violet!
And heavenward faces all aflame,
With sanguine imminence of morn,
Wait but the sun's kiss to proclaim
The day of the Dominion born."*

I believe that the time has come, and if two Governments set an example, the others must soon of necessity follow. There will be an uprising in this fair land of a goodly fabric of free Government, and all great national questions of magnitude affecting the welfare of the colonies will be disposed of by a fully authorised constitutional authority. This means a distinct executive and a distinct parliamentary power for the whole of Australia, and it means a Parliament of two Houses, a House of Commons and a Senate, which will legislate on these great subjects.

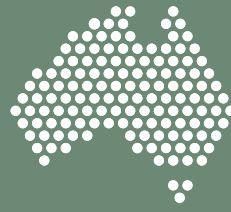
The Government and Parliament of New South Wales would be just as effective as now in all local matters, and so would the Parliament of Queensland. All great questions will be dealt with in a broad manner just as the Congress deals with the national affairs of the United States and as the Parliament of the Dominion of Canada deals with similar questions.

The opportunity has arisen for the consideration of this great subject and I believe that the time is at hand ... when this thing will be done. Indeed, this great thing will have to be done, and to put it off will only tend to make the difficulties which stand in the way, greater.





Teacher Reference Document 30



AUSTRALIAN
CONSTITUTION
CENTRE

Unit 5: Australian identity, federation and the Constitution including the intentions of the framers – Year 6 - Civics and Citizenship (C & C) Strand: Citizenship, Identity & Diversity

Topic 6.1: How and why the Australian Constitution came to be

Henry Parkes – the 'Father of Federation'

[Henry Parkes](#) is known as the 'Father of Federation'. With his exuberant white hair and great bushy beard, he is a well-recognised emblem of Australia's past. But what did he actually do to achieve that title?

Like many of Australia's founding fathers, Parkes came from a very modest background. He was born in England in 1815 and was the youngest of seven children. His family was tossed off the land it farmed due to debt and moved to the city of Birmingham, where Parkes's father became a gardener and odd-job man.

Young Henry had little formal education and began work as a child as a road labourer and in a brickpit. Things improved when he was apprenticed as an [ivory turner](#) (carving ivory into anything from chess pieces, to jewellery and [candle sticks](#)).

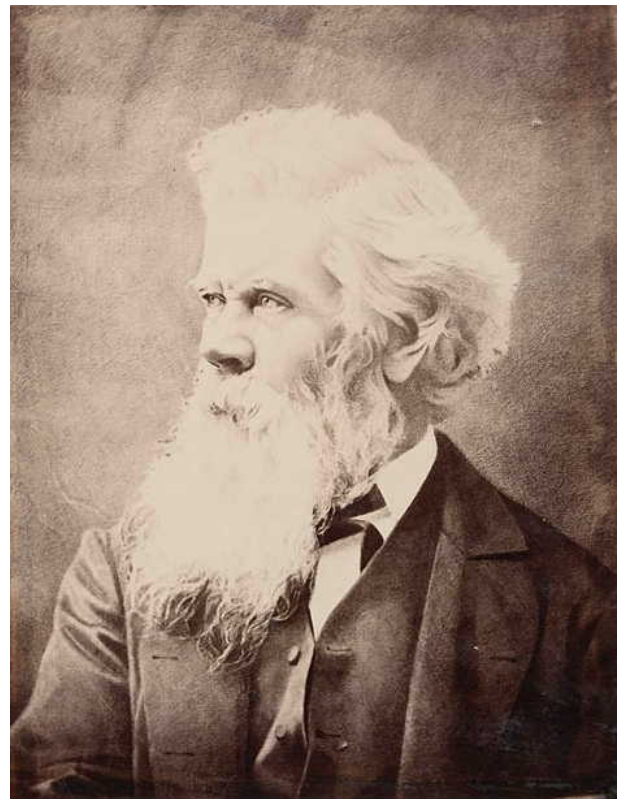
After his apprenticeship, Parkes set up his own business and married his wife Clarinda. But the business failed and he moved to London to find work.

Parkes had a great interest in the politics in England at that time and often attended public speeches given by candidates who were running for parliament. However, business was still not good and he had to sell his tools to survive. He was a man who took risks, (becoming bankrupt on more than one occasion), including in politics, with great rewards and equally great losses.

Parkes and his wife decided that their only hope was to sail to Australia as migrants. They arrived in Sydney on 25 July 1839, two days after Clarinda had given birth to a daughter while their ship was still at sea.

In Sydney, Parkes worked in lowly jobs until he earned enough to buy the tools necessary to set up his own ivory turning and import business in 1845, but he expanded too quickly and got into financial trouble again.

His political life started with campaigning for an expansion of the right to vote and the end to the transportation of convicts. Although he had little education, he taught himself by wide reading. In 1850 he became interested in republicanism, but soon moved back into mainstream liberal politics. He became the [owner](#) and editor of a newspaper, [the Empire](#), which campaigned for liberal causes. By 1854 he was elected as a Member of the NSW Parliament. Life was good – he was a successful businessman with a political career.



Sir Henry Parkes
Source: Wiki Commons



The First Federal Council of Australasia met in Hobart on 25 January 1886
Source: State Library of Victoria

But soon enough, he had neither a business nor a political career. The *Empire* was in financial difficulties and Parkes resigned from Parliament to focus on it in December 1856. In January 1858 he was back in Parliament, but then had to resign because his business, the *Empire*, [collapsed](#) (as bankruptcy results in automatic disqualification from Parliament).

Parkes had a wife and five children to support, his business had failed, bankruptcy proceedings were brought against him and his commercial reputation was in tatters. But Parkes was a fighter and he survived. By June 1859 he was back in Parliament. He became an important political figure, but was forced to resign again in 1870 as he went bankrupt.

This didn't stop Parkes from becoming Premier of New South Wales in 1872. As Parkes himself said, the business community knew he was 'wholly unfit for business, but the fittest of all men for Parliament'. From then he was Premier on and off, in a period punctuated by crises, financial failings and another bankruptcy. He achieved important reforms, such as introducing free state schooling. He was married three times, widowed twice, and had 18 children (some of whom died as infants). Henry was 78 when he fathered his last child.

Parkes, Australia and federation

Parkes had a long history of supporting the federation of the Australian colonies, but also did much to undermine it. Curiously, in 1888, he sought to rename New South Wales as 'Australia'. This was unlikely to achieve the support of the other colonies and was probably regarded by them as presumptuous.

In 1885 a [Federal Council of Australasia](#) was created. It brought the colonies together to participate in a Federal Council, which was a legislative body that could pass laws for all participating colonies on matters such as relations with Pacific Islands, the influx of criminals, fisheries, quarantine, naturalization and other things that deserved uniform treatment. But it had no executive powers and no money of its own. All it did was make laws. It was intended to cover all the Australian colonies, New Zealand and Fiji. But not all agreed to join.

In NSW the decision whether to join the Council came down to an almost evenly decided Legislative Assembly. Parkes, who in 1881 had supported such a Council, now gave the deciding vote against it. Parkes was worried that this Council was a 'rickety body' that would block the way for a 'sure and solid Federation'. His vote effectively destroyed it. Without the participation of the most populous and richest Australian colony, New Zealand refused to join, Fiji only turned up once and South Australia left soon after.

But Parkes still saw as the 'crowning glory' of his career a true federation of the Australian colonies. By 1889 he was in his 70s. He wanted a bigger stage and something that would live after him. He went to Queensland to talk to the Premier about the idea of federation. On the way home, he stopped at Tenterfield and gave his famous speech on 24 October 1889. He called for a federal convention comprised of 'leading men' appointed by the colonial Parliaments to devise a Constitution to bring into existence a federal government and federal Parliament for the 'conduct of national business'. The other Premiers angrily pointed out they already had a form of federation in the Federal Council, and Parkes was the one blocking its effectiveness. How dare he try to impose his own federation!

But one by one they begrudgingly agreed to at least hold an 'informal meeting' in Melbourne in 1890 to discuss the idea of federation and whether to go ahead with it. This became the Conference of 1890. All the Australian colonies and New Zealand attended, and enthusiasm for federation brimmed over. When at a banquet for the delegates a speaker warned that financial differences were a 'lion in the path' of federation, Parkes replied that there was a 'crimson thread of kinship that runs through us all'. The differences could be overcome.

Parkes made a major contribution to the resolutions that outlined the federal system, both at the [Melbourne Conference in 1890](#) and the Sydney Constitutional Convention of 1891 where Parkes was appointed as President of the Convention. In consultation with others, such as Barton, he set out the structure of the new Parliament, judiciary and executive, and set out principles such as free trade, unified defence, and retaining for the States all powers except for those that were necessary to be dealt with at a national level.



*Tenterfield School of Arts
where Henry Parkes
delivered his famous
Oration*

Source: CEFA

The terms of this resolution live on in the Constitution, even the unfortunate words 'absolutely free' in section 92 which have tormented the High Court for over a century in its constitutional interpretation.

It was Parkes who suggested the name 'The Commonwealth of Australia' for the new federation. This triggered memories of Oliver Cromwell's republican 'Commonwealth' in England, but Parkes saw it as an assertion of government for the 'common good'.

Henry Parkes caught pneumonia after a reception at Government House in 1896. He died at the age of 80, never seeing the birth of the Commonwealth which he had named and worked so hard to achieve.





Unit 5: Australian identity, federation and the Constitution including the intentions of the framers – Year 6 - Civics and Citizenship (C & C) Strand: Citizenship, Identity & Diversity

Topic 6.1: How and why the Australian Constitution came to be

Edmund Barton – from quelling cricket riots to commanding the Constitutional Convention

[Edmund Barton](#) was for a long time the unknown first Prime Minister of Australia. Since the centenary of federation, a spotlight has been thrown on him. So what have we learned and why is he worthy of greater attention?

Unlike many of the framers of the Constitution, Edmund Barton (known as 'Toby') was born in Australia, in the suburb of Glebe in Sydney in 1849. He was youngest of nine children, with two working parents. His father was an accountant and stockbroker while his mother ran a school for girls.

Barton was well-educated, attending Fort Street School, Sydney Grammar and the University of Sydney after which he became a barrister. Barton was later to use his knowledge of classics to send telegrams in Latin, when Prime Minister, so they remained confidential.

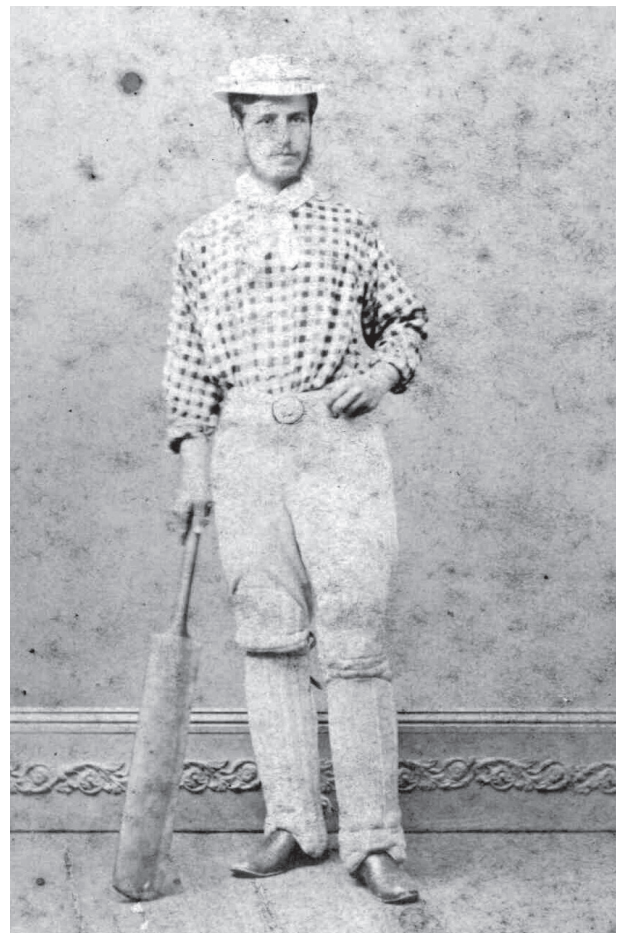
The love and luck of cricket

Barton was keen on fishing and cricket. One of his fishing buddies was [George Reid](#). He encouraged Barton to join a debating society. According to Reid, Barton was hopeless the first time he spoke, but Reid encouraged him to keep trying and Barton developed the skills he would so desperately need when campaigning for federation later in life.

But it was Barton's love of cricket that proved more important in his early years. He played for Sydney University, even after he graduated, being a fair batsman but a terrible fielder. It was through cricket that he found his wife, politics and fame.

Barton met his wife, Jeanie, while visiting Newcastle for a cricket match. He was so poor in his early days as a barrister that he had to wait seven years before he could marry her.

His first attempt at politics occurred when his fellow cricket club members nominated him for election to the NSW Parliament in a seat for which only Sydney University graduates could vote. He lost by 6 votes, but became hooked on politics.



Edmund Barton in his cricket gear |
Melbourne | Christmas 1870
Source: National Library of Australia

The real circuit breaker occurred in February 1879 when a visiting English side played a cricket match against New South Wales before a crowd of 10,000 people. Barton was one of the umpires. When the other umpire made a controversial call, there was a riot. Barton was credited with calming the riot, giving him a measure of fame and respect. Not long afterwards he was finally elected to Parliament for the University seat in October 1879. He then held various positions, including Speaker of the Legislative Assembly and later Attorney-General.

Barton and Federation

Barton became a passionate supporter of federation. He agreed with Parkes's Tenterfield address and was chosen as a representative of New South Wales at the 1891 Constitutional Convention in Sydney. His speeches impressed the delegates, but more importantly, just as he had done at the cricket, he mediated and calmed heated fights about the role that the Senate would have in the new federation. He was seen as the voice of reason.

When three members of the constitutional committee were chosen to do the key drafting of the Constitution over the Easter long weekend, on the Queensland boat, [The Lucinda](#), Barton was not included. But at the last minute, Andrew Inglis Clark became ill with the flu, and [Sir Samuel Griffith](#) urgently summoned Barton to replace him. Barton proved himself so hard-working and useful during this intense few days of drafting that he became one of the leaders of the federation cause, eventually taking over the role of Parkes.

While Barton failed to get the draft Constitution approved by the New South Wales Parliament, he remained committed to the cause. Out of Parliament for a period, he travelled around the colony, giving speeches in favour of federation at more than 300 meetings. By the time elections were held for members of the 1897 Constitutional Convention, Barton was elected with the highest number of votes in New South Wales, ahead of the Premier, his former fishing buddy, [George Reid](#). Barton was then elected the leader of the Convention and the Chairman of the drafting committee.

Barton campaigned fiercely for federation at the 1898 and 1899 referendums, with eventual success. Barton then led a small delegation which accompanied the Constitution to London, to try to get it enacted by the British Parliament without amendment. Barton argued that because the Constitution had been approved by the people in referendums, it could not now be changed.

The British, however, wanted a number of changes, including restoring the British Privy Council as the highest court of appeal. Barton strenuously opposed amendments, and lobbied powerful people across England. He met with everyone, from the Prince of Wales to a young Winston Churchill.

Finally, a compromise position was agreed upon. The Privy Council would remain the final court of appeal in commercial matters (which was what the British really wanted) and the High Court of Australia would be the final court of appeal on constitutional matters concerning federal and State rights. The Australian delegation was elated. Yes, a small change was made to the Constitution, but it would be enacted largely as approved by the people and federation would proceed.



Edmund Barton as a mature man
Source: National Library of Australia



Unit 5: Australian identity, federation and the Constitution including the intentions of the framers – Year 6 - Civics and Citizenship (C & C) Strand: Citizenship, Identity & Diversity

Topic 6.1: How and why the Australian Constitution came to be

Alfred Deakin and the fight to give the people a say

[Alfred Deakin](#) was the key Victorian leader of the federal movement. He trusted the people and argued that they should directly choose the Senate and be given a say in constitutional change by voting in a referendum. He led the successful campaign in Victoria in favour of federation.

Deakin was born in Melbourne in 1856. He spent much of his childhood day-dreaming about heroism and adventure and didn't study as hard as he should. But he finally realised he had to pull up his socks and work harder, so he did. In his final year at Melbourne Grammar, he did well enough to be admitted, at the age of 16, to study law at the University of Melbourne.

Because he was not rich, Deakin worked as a teacher, while studying law in the evenings and joining debates. In 1877 he passed his final exams for admission as a barrister. He was offered a job by the editor of *The Age* newspaper, [David Syme](#), who paid him to write reviews and articles. Journalism took over from law as his main career for the next five years.

An improbable entry into politics

At the age of 22, Deakin's life was turned upside down by a knock on his office door. There was a political crisis at the time. The conservative Victorian upper House had blocked supply (i.e. refused to grant money) to the liberal [Berry](#) Government. The Government responded by sacking the judges and senior public servants that it could no longer afford to pay. A temporary compromise was reached, but the Premier went to London to try to achieve constitutional reforms that would limit the upper House's powers. Berry had proposed the radical idea of using a referendum to resolve parliamentary deadlocks.

While Berry was away, a seat in Parliament became vacant, allowing the titanic struggle between the conservatives and liberals to be played out in a by-election. The conservatives found a rich city businessman to run. The liberals couldn't find anyone. At the last minute before nominations were due, the editor of *The Age* suggested Deakin. A group of men knocked at his door and asked him to run. Shocked, he said 'Yes', and by that evening he was a candidate giving his first political speech.



Portrait of Alfred Deakin | c. 1863
Source: National Library of Australia



Australasian Federal Convention
Sydney | 1891 |
Alfred Deakin in the back
Source: State Library of Victoria

Deakin had never stepped foot inside Parliament or even in a polling booth. For the eight days of the campaign, he raced from one town to another, giving speeches everywhere he could, supporting the idea of a referendum and winning over voters. Polling day came and he won by 97 votes. But he wasn't a typical politician. First, he refused donations to cover his electioneering costs – he wanted to maintain his independence. Second, in making his first speech to Parliament, he resigned his seat! Deakin was concerned that the vote was not accurate. One booth had run out of ballot papers and four people were denied the right to vote. Even though his majority was 97, Deakin resigned. He lost the by-election for his own seat and didn't win his way back into Parliament until July 1880.

In 1887 Deakin represented Victoria at the Colonial Conference in London, where he argued for colonial interests in naval defence and an Australian role in the colonisation of the Pacific. He met many politicians and public figures, including the Prime Minister Lord Salisbury and Queen Victoria.

Deakin and Federation

Deakin represented Victoria at the Melbourne Conference of 1890 and the Constitutional Convention of 1891 in Sydney. He was the youngest delegate, at the age of 34, but a very active and influential one. He was later elected to represent Victoria at the 1897-8 Constitutional Convention.

At both Conventions, Deakin was on the Constitutional Committee, giving him a major role in the framing of the Constitution. He was a progressive liberal, arguing that Senators should be directly chosen by the people, rather than appointed by the States. He also vigorously argued for the use of the referendum as a means of giving the people a direct say in approving the Constitution and any future change to it. He finally got his way, against the objections of other leaders, such as [Sir Samuel Griffith](#).

Most importantly, Deakin was a superb campaigner. He roused the Victorian people into massive support for federation. The referendum to approve federation was passed in Victoria in 1899 with 152,653 for, and 9,805 against, largely due to Deakin's campaigning.

Deakin, the High Court and constitutional interpretation

As the first Commonwealth Attorney-General, Deakin was responsible for securing the passage of legislation that established the High Court of Australia. In his [speech](#) on the *Judiciary Bill*, he explained how the High Court needed to interpret the Constitution as a living document.



Federal Convention, Adelaide, South
Australia | 1897
Source: State Library of South Australia

Deakin recognised how hard it would be to amend the Constitution, but that the 'nation lives, grows and expands'. 'Its circumstances change, its needs alter, and its problems present themselves with new faces.' He saw the High Court as transfusing 'the fresh blood of the living present' into the Constitution. It would enable the Constitution to grow and adapt to changing necessities of life. He concluded: 'Amendments achieve direct and sweeping changes, but the court moves by gradual, often indirect, cautious, well considered steps, that enable the past to join the future, without undue collision and strife in the present'.

This is important, because it is often said that the Constitution should be interpreted as originally intended by the people who wrote it. But here we have one of the people who wrote it showing that he intended the High Court to interpret the Constitution in a way that adapted it to new circumstances.

Deakin did not become a High Court judge – he did not want to be one. He preferred politics and became Prime Minister for the first time in 1903.

Preserving the history of federation

While Deakin was in London, trying to persuade the British to pass the Constitution intact, he received an offer from the editor of the *Morning Post* newspaper to be an anonymous special correspondent from Australia. The fee was £500 per year. Deakin accepted, and wrote weekly articles about Australian politics, without anyone knowing it was him. He even wrote mild criticisms of himself, putting people off the scent of who this well-informed author was. He did so through his time as Prime Minister without anyone suspecting.

Deakin also wrote an account of the journey to federation, which was published long after his death as [The Federal Story](#). It is the ultimate insider's view on the characters, conflicts and controversies of the federation campaign.

Deakin was a driving force behind federation, a recorder of key moments in Australia's history and most importantly, a man who trusted his fellow Australians and let them have their say on important constitutional matters.





Teacher Reference Document 33



AUSTRALIAN
CONSTITUTION
CENTRE

Unit 5: Australian identity, federation and the Constitution including the intentions of the framers – Year 6 - Civics and Citizenship (C & C) Strand: Citizenship, Identity & Diversity

Topic 6.1: How and why the Australian Constitution came to be

Samuel Griffith - the man behind the words

[Samuel Griffith](#) was born in Wales in 1845. His father, Edward, was a Minister in the Congregational Church, who took up an invitation to serve the Church in Queensland. Edward was a strict and religious man, who thought that reading should be only for 'instruction' and self-improvement, and that it should never be for pleasure.

Samuel's family sailed for Sydney in a ship called *The Nile* in 1853 when he was eight years old. Samuel kept a diary throughout the 124 day journey. The family settled at first in Ipswich and then in West Maitland, where they twice had to be evacuated from their home due to floods. At the age of 9, Samuel ran his own small business, buying and raising chickens and selling eggs. He kept detailed records of the cost of the chickens and their food, which he balanced against the payments he received for the eggs. He recorded his profits and how he spent them, from lollies to regular donations to the missionary box.

Samuel was bright and hard-working at school. The attention to detail that he showed in his chicken accounts could be seen in his schooling, where he excelled in Latin, Ancient Greek and mathematics. At the age of 15 he won a scholarship to attend the University of Sydney, where he studied classics, mathematics, chemistry and physics. Away from the strict religious influence of his family, he started reading novels for pleasure and broadened his horizons. He also became interested in politics, and when he was back in Queensland for the holidays, he regularly went to watch Parliament sit. While still a teenager he wrote 25 articles about local politicians for a Queensland newspaper, using the pen name Charley Chalk.

Upon graduating from University in 1863, at the age of 18, he started a legal apprenticeship with a lawyer in Queensland. He had to serve 3 years before he could qualify as a lawyer, but this was interrupted when he won a scholarship in 1866 that allowed him to travel to England and take a 'grand tour' through Europe to see the great art galleries and cultural sites. His father wanted him to return home to follow in his footsteps in the church, but to his disappointment, Samuel had other plans.



Samuel Griffith | 1874 Source: State Library of Queensland



T. Playford
Qs. Australia

Edmund Barton
Western Australia

James Hume
Victoria

S. H. Phipps
Queensland

Once home, Samuel served the rest of his legal apprenticeship and became a very successful barrister. He also gained a seat in Parliament in 1871, spending his days arguing cases in court and his evenings debating laws in Parliament. He was made Attorney-General (ie the Government's chief lawyer) in 1874, and became well known for drafting detailed and precise laws. He later served as Premier of Queensland from 1883 to 1888 and again from 1890-1893.

Sir Samuel Griffith and the drafting of the Constitution

Griffith is remembered for his role in the drafting of the Commonwealth Constitution. He was elected Vice-President of the 1891 Constitutional Convention and led its Constitutional Committee, which had the task of converting the principles adopted by the Convention into a Constitution. Realising that a Committee is better at revising an existing draft, than writing it, Griffith worked over three days and nights to produce a draft that could then be discussed by the drafting sub-

Australasian Federal Convention |
 1891 | John Hubert Newman
 Source: State Library of NSW

committee over the Easter long-weekend in 1891. Griffith's first draft drew on earlier drafts that had been produced by Andrew Inglis Clark and Charles Kingston, as well as Griffith's own work on the establishment of the Federal Council of Australasia in 1885 (which was a loose but ineffective federal attempt) and a proposal to federate Queensland into three separate provinces in 1890. Most of the powers given to the Commonwealth Parliament by the Constitution can find their source in these earlier documents.

Once he had a draft that the drafting sub-committee could work on, Griffith took them away on the Queensland Government's steam yacht, [The Lucinda](#), to the Hawkesbury River, where they pored over Griffith's draft, altering parts where necessary, but leaving the substance largely the same. The drafters included Charles Kingston and Edmund Barton (who replaced Andrew Inglis

Clark, who was sick with influenza). Much of the Commonwealth Constitution can be traced back to Griffith's first draft and the work done on [The Lucinda](#).

The 1891 draft Constitution lapsed and a new Constitutional Convention developed another draft in 1897-98. Griffith was not a member of this Convention, because Queensland did not participate, and in any case Griffith was by then Chief Justice of Queensland and could no longer take part in politics. But he still wrote to members of the Convention, correcting and criticising their work and provoking changes.

Griffith did not always get his way. He opposed the use of a referendum to change the Constitution. He thought constitutional matters were too complex to put to the people. He preferred the use of Conventions comprised by experts to decide constitutional changes. He also opposed the direct election of Senators, preferring them to be chosen by State Parliaments. He wanted the Constitution to leave it open for Ministers not to be members of Parliament, as he saw this as giving more flexibility for the Constitution to evolve. He lost on these points, but remains a major influence on the form and substance of the Constitution.

Griffith was a nationalist. He wanted to ensure that Australians could exercise all necessary powers locally and did not have to ask the British Parliament for legislation. This aim was reflected in section 51(xxxviii) of the Constitution, which allowed the Commonwealth Parliament, at the request of the State Parliaments, to exercise any power that otherwise only the British Parliament could have exercised at the time of federation.

The requirement for State agreement was important. Griffith's vision of the federal system was one where most power would continue to be held by the States. As he saw it:

the separate states are to continue as autonomous bodies, surrendering only so much of their powers as is necessary to the establishment of a general government to do for them collectively what they cannot do individually for themselves, and which they cannot do as a collective body for themselves.

This original intention of a small central government with powers limited to those matters that had to be dealt with centrally (such as external affairs, defence and immigration) did not survive past the first two decades of federation.

Chief Justice of the High Court

Griffith was appointed Chief Justice of the High Court (which is the highest court in Australia), and while he led the Court it upheld this original view of the Constitution. But after his retirement, the High Court in 1920 shifted its approach, taking a very broad view of Commonwealth powers, which changed the balance in the federal system between the Commonwealth and the States.

Griffith died in 1920, a world away from his birthplace in Wales, after having led a momentous life at the highest levels in both politics and the law. It was his hand that guided the pen that wrote much of the Constitution. Those words live on today in the Constitution, more than a century after his death. But while his words have survived, the original intention behind them has not always done so. This would not have surprised Griffith, however, as he realised that the Constitution would have to evolve in the face of changing facts and social expectations. Words become the servants of the living, not the dead.





Unit 5: Australian identity, federation and the Constitution including the intentions of the framers – Year 6 - Civics and Citizenship (C & C) Strand: Citizenship, Identity & Diversity

Topic 6.1: How and why the Australian Constitution came to be

Charles Kingston and the right for all adults to vote

[Charles Kingston](#) was born in Adelaide to a prominent family. His father, Sir George Kingston, came to South Australia as a surveyor at the time the colony was first established by the British in 1836. He claimed to be the first Irishman to set foot in Adelaide and to be a discoverer of the Torrens River. He later became a member of the first South Australian Parliament, serving for a long time as the Speaker of the House of Assembly.

George's son Charles received a good education and trained to be a lawyer under the supervision of Sir Samuel Way, who later became Chief Justice. He had society connections and every advantage, but sometimes squandered it by rash behaviour.

Kingston's political career – from duels with pistols to votes for women

Kingston was elected to Parliament in April 1881. Despite his privileged background, he was a liberal, rather than a conservative. He was strongly in favour of democratic reforms, including giving more people the vote, ensuring that itinerant workers could vote and ending the dominance of the Legislative Council by wealthy landowners. He ensured that Members of Parliament were paid, so that Parliament was not confined to those who were wealthy. He was also known for his support of working-class people and his efforts to improve their economic conditions. He introduced progressive taxes and inheritance taxes, to decrease the gap between the rich and the poor, and he introduced the 8 hour day for government workers.

Kingston became Attorney-General in 1884 and Premier of South Australia in 1893. He was a skilled drafter of laws who seized the challenge of improving old laws and writing new ones. But he was also a quarrelsome man who liked to bulldoze the opposition into submission. When he was insulted by a political opponent, the conservative Richard Baker, in 1892, Kingston sent him a loaded pistol and challenged him to a duel at 1.30pm in front of the Adelaide Town Hall. Kingston arrived with his pistol in his pocket, only to face the police, who had been sent by Baker (who had decided it was better to obey the law). Kingston was later given a bond and released on the condition that he 'keep the peace' for 12 months (ie not get into any other trouble). During that year, Kingston became Premier.

While Kingston was a liberal and a democrat, he was not initially in favour of votes for women. But he was later persuaded and he supported the passing of a law that allowed South Australian women to vote and stand for Parliament. The law was passed at the end of 1894, came into force in 1895 and women first voted in an election in 1896. Kingston also had laws changed to improve the property rights of married women.

Kingston and Federation

Kingston was a strong supporter of federation. Before the 1891 Constitutional Convention, Kingston received a copy of a draft Constitution prepared by the Tasmanian Andrew Inglis Clark. Kingston thought he could do better, so he took Clark's draft Constitution as a starting point to create his own alternative draft Constitution, which he sent to some other delegates.

Kingston's draft Constitution included a compromise for how the two Houses would deal with money matters, which eventually became [section 53](#) of the Constitution, and a requirement that Ministers be, or within three months become, Members of Parliament, which later formed part of [section 64](#) of the Constitution.



One of the unique features of his draft Constitution was the use of the referendum as a means of amending the Constitution. This was later taken up in [section 128](#). But Kingston went further, arguing for a form of citizens' initiated referendum, where 20,000 voters could demand a referendum to be held on any bill. In this he failed.

When a 'drafting sub-committee' was formed by the Constitutional Committee of the 1891 Constitutional Convention, both Kingston and Clark were invited to join it, along with its leader Samuel Griffith. Griffith drew on the drafts by Kingston and Clark, in preparing an initial draft of a federal Constitution, and Kingston joined Griffith on the Queensland Government's steam yacht, [The Lucinda](#), for the trip on which the first draft of the Constitution was revised. At the Convention, Kingston argued strongly for the direct election of Senators, rather than having them chosen by the State Parliaments. At one stage he even supported the election of State Governors, although he later backed away from this proposal, accepting that an elected Governor might become a rival to a Premier, with a popular mandate of his own.

After the 1891 Convention, the progress of federation slowed and was later revived at the [Corowa Conference](#) in 1893. At a Premiers' Conference in 1895, Kingston drafted laws for a new Constitutional Convention to be elected by the people and for its resulting Constitution to be voted on by the people in a referendum. Such a

South Adelaide Football Club | 1879 |
Club Delegate Charles Kingston in the
black top hat on the right Source: State
Library of South Australia

law was passed by most of the colonies (although Queensland opted out, and Western Australia preferred its Parliament to elect its representatives) leading to the 1897 Constitutional Convention.

Kingston again wanted to take it further by getting the British Parliament to enact legislation that would have allowed the Australian colonies to enter into a federation on the basis of the Constitution decided upon by the Convention and approved in a referendum, without any changes being made by the British. As things turned out, this would have been wise, but Kingston's proposal did not proceed (and the British did later seek to make changes).

The first session of the 1897 Constitutional Convention was held in Adelaide, with Kingston being elected its President. While this was an honour, it also had the effect of keeping him off the drafting committee, limiting his influence. Kingston and his South Australian colleagues argued for the inclusion in the Constitution of an express right to vote for all adults (including women). After they failed on this point, they



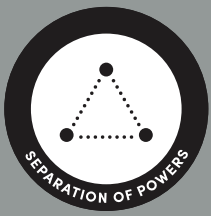
secured the passage of [section 41](#) to protect the right to vote of women who had already won it at the State level. Kingston also argued for a locally appointed Governor-General, who would act upon the advice of Australian ministers and pressed hard to protect access by South Australians to the waters of the Murray River.

Federal Convention, Adelaide,
South Australia | 1897
Source: State Library of South
Australia

In 1900 Kingston travelled with Barton and Deakin to London to negotiate with the British over the enactment of the Commonwealth Constitution. They were hard negotiations, with Kingston threatening at one stage to pack up and go home. But a compromise was finally reached and the Constitution was passed, much to Kingston's relief.

When the Commonwealth came into existence, Kingston became a Member of the House of Representatives and Minister for Trade and Customs. He died early, at the age of 58, from a stroke.





Unit 5: Australian identity, federation and the Constitution including the intentions of the framers – Year 6 - Civics and Citizenship (C & C) Strand: Citizenship, Identity & Diversity

Topic 6.1: How and why the Australian Constitution came to be

Andrew Inglis Clark and the lost bill of rights

[Andrew Inglis Clark](#) is possibly best known for what he didn't do – get a bill of rights into the Australian Constitution. But is this really a fair assessment?

Andrew Inglis Clark was born in Hobart, Australia, in 1848. His parents were Scottish. After completing his schooling, Clark was apprenticed as an engineer in his father's engineering business, but it was not enough for him. He had a very lively mind, so he later studied law and became a barrister at the age of 29. His interests ranged from literature and poetry (of which he wrote quite a lot) to political philosophy and the law. He was particularly interested in the United States Constitution and had [republican](#) leanings.

When Clark first ran for the House of Assembly (i.e. Tasmania's lower House of Parliament) in 1878 he was accused in the press of having '[ultra-republican](#), if not revolutionary, ideas', like a 'Communist'. Clark denied that he had extreme views. He wanted government to work for the benefit of everyone. Despite the bad publicity, he was elected unopposed. But he lost office in 1882 and struggled to be re-elected until 1887.

In the meantime, he became a successful lawyer and campaigned for democratic reforms, including the expansion of the right to vote, the removal of corruption in political campaigning and the reduction of parliamentary terms to three years, so that the views of the people could be heard more regularly.

Once back in Parliament, he became Attorney-General in 1887 and brought into effect many of the things for which he had campaigned, including broadening the right to vote, legalising trade unions and improving the employment conditions for working people. He also changed the voting system to one of proportional representation, known still as the [Hare-Clark system](#). He was a supporter of the right to vote for women, and a friend to prominent feminists. He visited America and became friends with the great lawyers and thinkers of the day, including the famous American judge [Oliver Wendell Holmes](#).



Andrew Inglis Clark | 1853 |
Source: Tasmanian Archive and
Heritage Office



United States Bill of Rights
Source: iStock

Putting the piece of paper on the table first

When working in his father's engineering firm, Clark became frustrated by the taxes and laws affecting trade across colonial borders. This sparked his interest in federation. Tasmania was an active participant in the loose federal body established in 1885, called the Federal Council of Australasia. Clark attended its meetings as Tasmania's Delegate in 1888, 1889, 1891 and 1894. This gave him an appreciation of what worked and what changes were needed.

Clark represented Tasmania at the Melbourne Conference of 1890 about whether the Australian colonies should federate. There he played an important role in convincing delegates that the Canadian style of federalism was too centralist and that they should adopt the American style instead.

There is an old rule of life that in any meeting, the person who puts a piece of paper on the table first wins. For example, if for a group assessment, your group meets to decide how to do it, and you turn up with a piece of paper which sets out a plan and sketches out the main outcomes, the rest of the group will then take that paper as the starting point for decision-making. They may not agree with all of it, but you will have significantly influenced the structure, approach and probably most of the outcomes. This is what Clark did. Prior to the 1891 Constitutional Convention, which had been called to draft a Constitution, Clark drafted his own Constitution and distributed it to the main players in advance. This meant that Convention delegates used his document as a starting point. It made him hugely influential.

Much of Clark's document drew on provisions in the United States Constitution, the Canadian Constitution, the *Federal Council of Australasia Act 1885* and the Constitutions of the colonies, so it wasn't completely original. One of the only times 'plagiarism' (copying the work of others) is acceptable is in writing a Constitution – because you want provisions that have already been tested and interpreted by courts. But Clark still personally influenced the structure and which provisions, or parts of them were used. So he left his fingerprints on it.

Clark became a member of the drafting Committee of the Constitutional Convention, but came down with the flu and was unable to participate in the most intense drafting sessions on the Queensland Government's steam yacht, *The Lucinda*, over the Easter break in 1891. Although he was consulted on the outcome, he was unhappy about some of it.

Clark also chaired the Judiciary Committee of the Convention. He was determined to get rid of the Privy Council as the court of final appeal for Australian cases. He had been to London for a Privy Council case and watched it in action when 'only one of the judges was awake and the other three were all dozing'. He was not impressed.

Clark did not run for election to the 1897 Constitutional Convention. It is not clear why. Perhaps he was fed up with it all. But it didn't stop him sending letters to delegates proposing changes and seeking to influence outcomes.

Inglis Clark and a bill of rights

As the local expert on the US Constitution, it might have been expected that Clark would have included a bill of rights in his draft Constitution of 1891, but he did not. He only included a right to trial by jury and a freedom of religion, both of which were much broader than the versions now in the Constitution. For example, Clark's version would have forbidden laws that support or give preferential recognition to any religion.

During the 1897 Convention, Clark wrote to delegates arguing for the inclusion of some aspects of the US 14th Amendment. He wanted a provision that not only protected the residents of one State from discrimination by another State, but also prevented a State from depriving any person of life, liberty, or property without due process of law, or denying to any person within its jurisdiction the equal protection of its laws. If this had been included, it might have imported all sorts of rights into the Australian Constitution, just as these words have done in the United States. But the delegates at the Convention were wary of including phrases that they could

not clearly define. What did 'due process' or 'equal protection' really mean? How might a court interpret them in the future? Wasn't it better to leave these matters to democratically elected Parliaments? Clark was not a delegate and couldn't defend his proposal. The delegate raising it lost the piece of paper which set out all of Clark's arguments. The provision was cut down to become [section 117](#), which just protects residents of one State from discrimination by another State. All reference to due process and equal protection was lost.

Clark was appointed as a judge of the Tasmanian Supreme Court in 1898. He saw the Constitution as a 'living force' and wanted it to be interpreted in a way that developed over time. He wrote an important [book](#) on the Constitution which is still used today. He was [almost appointed](#) to the first High Court of Australia, but lost out after Parliament reduced the Court's proposed size from five to three judges. When the Court was later expanded, Clark missed out again, probably due to age and illness, but he was quite bitter about it. He died not long afterwards in 1907, leaving a legacy both in the written words of the Constitution and in its interpretation.



Unit 5: Australian identity, federation and the Constitution including the intentions of the framers – Year 6 - Civics and Citizenship (C & C) Strand: Citizenship, Identity & Diversity

Topic 6.1: How and why the Australian Constitution came to be

John Forrest – the champion of Federation from the West

John Forrest (later Baron Forrest of Bunbury) was born near Bunbury in Western Australia in 1847. He was the fourth of 10 children, and it is a fair bet that his parents never expected him to become a Baron one day. His parents were Scottish and had migrated to Australia as servants to a doctor. His father later became a farmer. John did well at school, particularly in mathematics, and became a land surveyor (ie measuring, describing and mapping land), working in the Surveyor-General's office.



John Forrest | 1874
Source: State Library of WA

As part of his surveying job, he became an explorer. On his first trip he was sent to search for clues on the fate of the explorer Leichhardt, who never returned. Later, in 1870 Forrest undertook the first overland crossing from Perth to Adelaide, providing a detailed survey of the route so that a telegraph line could later be constructed along it. The line was completed in 1877 connecting Perth with Adelaide and London. Unlike other explorers, Forrest was not reckless, his expeditions were well planned and his surveying skills meant that he was never lost. His feats of exploration brought him fame in Australia and the United Kingdom.

Forrest became Surveyor-General of the colony. In those days this gave him a seat in the Executive Council which advised Western Australia's Governor. The colony had not yet developed a system of responsible government (ie one in which the government is formed by elected politicians), so the Governor held real power. Forrest was an efficient public servant who managed his budget and staff well and was respected.

Western Australia and federation

Western Australia's political development was much slower than the other colonies, due to its continued use of convict labour until 1868, small European population (only 30,000 in 1881) and little industry or investment. The discovery of gold in 1885 changed things. The population began to grow, but this created political tensions, pitting the urban and farming establishment against the miners from the eastern colonies.

At the end of 1890, the first Legislative Assembly elections were held, and John Forrest was asked by the Governor to form the first responsible government. It was a busy time. Parliament first sat on 20 January 1891, and the government's first budget was introduced by Forrest on 4 February. But then Forrest and six of his colleagues had to race to Sydney, by ship and train, to participate in the 1891 Constitutional Convention to draft the Constitution for the proposed federation.



Photo: Elliott & Fry

THE IMPERIAL CONFERENCE OF 1897

Rt. Hon. Richard Seddon (New Zealand), Sir Wilfrid Laurier (Canada), Rt. Hon. Joseph Chamberlain (Sec. State for Colonies), Sir George Reid (New South Wales), Sir John Gordon Sprigg (Cape Colony), Sir Edward Braddon (Tasmania), Sir George Turner (Victoria), Sir William Whiteway (Newfoundland), Sir John Bramston (Colonial Office), Sir Hugh Nelson (Queensland), Hon. C. C. Kingston (South Australia), Sir John Forrest (Western Australia), Hon. Harry Escombe (Natal), Mr. Edward Wingfield (Colonial Office), Sir John Anderson (Sec. Colonial Conference), Earl of Selborne (Colonial Office)

It took them 10 days to get to Sydney, arriving late, missing the first three days of the Convention. This highlighted the isolation of Western Australia, and its need for a transcontinental railway so it could fully participate in inter-colonial affairs.

Forrest was in favour of federation from the beginning, but wanted to delay it until the time was right for Western Australia. Forrest's main aim was to ensure that the Senate would have sufficient power to protect the less populated States against the action of the more populous States of Victoria and New South Wales. He also wanted a railway to be built from Adelaide to Perth and the improvement of the harbour at Fremantle, so that Fremantle would be the first port at which ships from Europe would arrive.

But the Convention was not terribly interested in the train and harbour issues, and while he had some success regarding the Senate, Forrest was still not satisfied and wanted to ensure it had even stronger powers.

The Imperial Conference of 1897,
John Forrest in the back row
Source: State Library of WA

After the 1891 Constitutional Convention completed its draft Constitution, a terrible drought and an economic crisis hit the eastern colonies. They let the idea of federation drop. Things were different in the west. In 1892 the Coolgardie goldfields were opened, and then in 1893 gold was discovered in Kalgoorlie. Miners rushed there from the struggling eastern colonies. The population grew to 160,000. British investment in Western Australia rapidly increased. It was a boomtime in the west, while there was a depression in the east.

Federation was revived by the people, with a plan set out at the Corowa Conference for elected delegates to a new Convention, and a referendum to approve the resulting Constitution. Forrest did not approve of this approach. He thought a referendum would be dangerous and 'un-British', and he decided the WA delegates to the Convention would be elected by the Parliament, rather than the people (perhaps fearing how the people in the goldfields might vote).

While the WA candidates for election to the Convention did not have to be Members of Parliament, only Members of Parliament could vote. Unsurprisingly, all ten successful candidates were Members of Parliament, with Forrest receiving the highest vote.

At the Adelaide Session of the Constitutional Convention in 1897, Forrest argued that the Senate needed to have full power to alter and reject all proposed laws. He failed and a compromise was struck which imposed limited restrictions on the Senate's powers on laws about taxes and spending. Forrest successfully supported giving the Commonwealth power to pay pensions to the old and sick. He also provided critical support for a limited Commonwealth power to make laws about industrial relations (eg to settle inter-state strikes).

While Forrest supported the draft Constitution, his own political supporters opposed it. Even worse, while the goldfield areas of Western Australia strongly supported federation, they opposed Forrest. The upper House of the Western Australian Parliament refused even to allow a referendum to be held on federation. Forrest was caught in a difficult political position.

It looked like federation would go ahead without Western Australia, or that the goldfields area of Western Australia would split off and join the rest of Australia in a federation. Forrest's efforts to convince the British to alter the draft Constitution to include extra protections for Western Australia failed. The British went ahead and passed the *Commonwealth of Australia Constitution Act 1900* (containing the Constitution) without the support of Western Australia.

This is why Western Australia is not mentioned in the opening words of the Constitution Act, but the opportunity was left open for Western Australia to join as an 'original State' before federation on 1 January 1901. Original states got guaranteed equal representation in the Senate, and a minimum number of five seats in the House of Representatives, even if their population was too low to otherwise qualify for that many seats. If a colony joined federation after 1 January 1901, then it would get no such guarantee, and could end up with lower representation in both Houses and worse conditions. There would be a real cost to joining late.

With no further opportunities to make changes, the Western Australian Parliament agreed to hold a referendum on whether to join federation. It passed, with support from the goldfields. But it marked the end of Forrest's time as Premier. He didn't mind, because he could now become a federal minister in the new Commonwealth Parliament. He served as Treasurer for many years in the first two decades of federation, including during World War I, and he had the pleasure of being a passenger on the first transcontinental railway trip to Perth in 1917, having campaigned for it since 1890. He was honoured for his long service by being the first native-born Australian to be awarded the title of Baron.



D.C. 1b. DINNER.

COMMONWEALTH RAILWAYS.

DINING CAR SERVICE.

DINNER, 7.15 P.M.

As the seating accommodation is limited in the Dining Saloon, passengers are requested to kindly take their seats at table promptly upon announcement of "Call." Seats unoccupied five minutes after "Call" will be re-allotted.

Please hand this Slip to Waiter before taking seat.

C.13922.

D.C. 2.

DINNER

Mutton Broth.
Spring Soup.
Fish.
Roast Sirloin of Beef and Horseradish.
Boiled Leg of Mutton and Capser Sauce.
Roast Stuffed Turkey.
Vegetables.
Rhubarb Pie.
Rice Custard.
Compote of Apricot.

Cheese. Salad. Fruit.
Tea. Coffee.

TARIFF :
Soup, Fish, Joint, Sweets, Tea or Coffee 3/-
Full Course 4/-

Children under 14 years : Two-thirds of Adult Rates.
Employees are prohibited from accepting gratuities.

RECEIPTED SLIP MUST BE GIVEN FOR ALL PAYMENTS



First passenger journey Port Augusta to Kalgoorlie
Source: State Library of SA



Unit 5: Australian identity, federation and the Constitution including the intentions of the framers – Year 6 - Civics and Citizenship (C & C) Strand: Citizenship, Identity & Diversity

Topic 6.1: How and why the Australian Constitution came to be

John Quick and the plan that revived Federation

John Quick was born in Cornwall, England, in 1852 and came to Australia at the age of two as part of the Victorian gold rush. His parents settled in the gold fields of Bendigo, but his father soon died. Quick had little formal education, leaving school at the age of ten to work in hard manual labour in an iron foundry and then a mine. But he was determined to achieve more in life than manual labour. His life changed when he shifted work to the print room of a Bendigo newspaper. From there, he taught himself to write shorthand and through sheer grit and intelligence, he became a junior reporter for the paper. He was then able to move to Melbourne, succeed in the university entrance exams, win scholarships, study law at University and graduate as a lawyer by the age of twenty five. That's an extraordinary journey for a ten year old factory worker to make.

Quick returned to his home town of Bendigo where he practised as a lawyer and won a seat in the Victorian Parliament in 1880. Perhaps the memory of his lack of early education spurred him on, because at the age of 30 he graduated with a doctorate in law from the University of Melbourne, allowing him to be called 'Doctor Quick' (even though he was not a medical doctor).

From the early 1880s he was a strong supporter of federation of the Australian colonies. He realised it would be a long struggle, saying that it was 'only by consistent agitation and discussion that a national question such as this can ever be brought to maturity'. In 1885 there was an attempt at a loose form of federation, called the Federal Council of Australasia. It was never very effective, largely because New South Wales refused to participate.

Quick was very critical of it. He called it a 'one horse' federation. He clearly wanted a federation with lots more horse power and higher levels of cooperation. Quick was an honorary member of the Australian Natives Association, which was a body made up of people born in Australia who strongly supported federation. As Quick was not born in Australia, he could not have full membership, so he established his own body, the Bendigo Federation League.



John Quick | 1898
Source: National Library of
Australia

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The motions were agreed to.

STATUTORY CONVENTION ACT.

Dr. Quick made a brief speech, in the course of which he moved the following motion—That in the opinion of this conference the legislature of each Australasian colony ought to pass an act providing for the election of representatives to attend a Statutory Convention or Congress to consider and adopt a bill to establish a Federal Constitution for Australasia, and that upon the adoption of such a measure it be submitted by some process of referendum to the verdict of the electors of each colony.

The motion was spoken to by several members, and carried with acclamation.

A CUSTOMS UNION.

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The Corowa Conference of 1893

The 1891 Constitutional Convention had debated and drafted a Constitution for a federation of the Australian colonies. But the flaw in the plan was that no one had worked out what to do next. The Constitution was sent off to the various colonial Parliaments for them to approve, or to ask their people to approve, or to do something. But politics got in the way, and the issue was dropped. In New South Wales, the main supporter of federation, Sir Henry Parkes, had lost office. The Government needed the support of the Labor Party, which was opposed to federation, so the issue was dumped into the 'too-hard basket'.

But there was still popular support among the people for federation, particularly amongst those who lived near the borders and were affected by taxes every time their goods crossed the border. Many of the towns along the Murray River border between Victoria and New South Wales had Federation Leagues. On 1 August 1893 the town of Corowa hosted a conference attended by representatives of these Leagues. Quick, despite living a bit further afield in Bendigo, was one of the attendees.

The Corowa Free Press | Wed 2
August 1893 | Page 2 | The
Federation Conference Source:
National Library of Australia

Like many conferences, there were lots of fine words calling for federation, but they were preaching to the converted and would not achieve anything. In the end, a frustrated delegate called Herbert Barrett got up to say that this was all 'words, words, words – can't we do something?' This was the key tipping point. Quick called for a short recess and half a dozen people joined him in a side room as they worked out a plan of action. Within 30 minutes Quick was back, presenting to the conference the 'Corowa Plan'. It had three critical steps.

First, instead of a Constitutional Convention chosen by Parliaments, like last time, there would be an election of representatives to a new Constitutional Convention. This would give the people direct involvement in the process and start them actively thinking about federation.

Second, once the new Constitution was completed by the Convention, it would be put to the people of each colony in a referendum for their approval.

Third, this whole process would be set out in advance in a law enacted by each colony. This would mean that from the very start there would be a required process that would run all the way through to the finish. There was no prospect of the issue dying of neglect again.

John Quick and his fellow author Robert Garran later explained:

‘Those who had jested at the Convention of 1891 as a body of men engaged in the amiable and amusing task of drawing up a Constitution for the waste-paper basket would have to admit that there was something serious about a Constitution which when framed, the Government would be obliged by law to submit to the electors for their acceptance or rejection’.

The people too, were aware that they had a crucial role in this whole process. When they voted for their representatives in the Constitutional Convention, as Garran remarked, they knew that ‘the gun was loaded’ and that they would later be called upon to approve the resulting Constitution.

From a political point of view this plan was of fundamental importance to Australia. Even though, for legal reasons, the Constitution was always going to be enacted by the British Parliament, the great innovation here was to require the approval of the people *first*. This meant that many decades later, when the High Court looked to see what makes the Constitution binding, it could argue that while the legal source of power was the British Parliament, the *political* source of power was the people themselves, acting in the exercise of popular sovereignty. It was John Quick who laid out the plan for that exercise of popular sovereignty.

Quick drafted the bills to enable the whole process and convinced the Premiers to take it up. The Corowa Plan formed the basis for the 1897-8 Constitutional Conventions and the referendums that led to federation. It was the major success of Quick’s life.

Quick’s later achievements

Quick was an elected member of the 1897-98 Constitutional Conventions. With Robert Garran he published a book, [The Annotated Constitution of the Australian Commonwealth](#), which explained what all the provisions of the Constitution were intended to mean and the history of their development. That book is still used today.

Quick was elected to the new Commonwealth Parliament and was a Member until 1913. He then returned to being a lawyer and wrote more books, including one on the *Judicial Power of the Commonwealth*. There is a [bronze bust](#) of Quick in the Bendigo Queen Victoria Gardens with the motto ‘Qui Patitur Vincit’ (‘He who perseveres conquers’). It seems very fitting for a boy who worked in mines at the age of ten and designed the plan that brought about the federation of a nation.



Sir John Quick, Bendigo |
D. Bernard & Co. | 1902
Source: State Library of Victoria



Unit 5: Australian identity, federation and the Constitution including the intentions of the framers – Year 6 - Civics and Citizenship (C & C) Strand: Citizenship, Identity & Diversity

Topic 6.1: How and why the Australian Constitution came to be

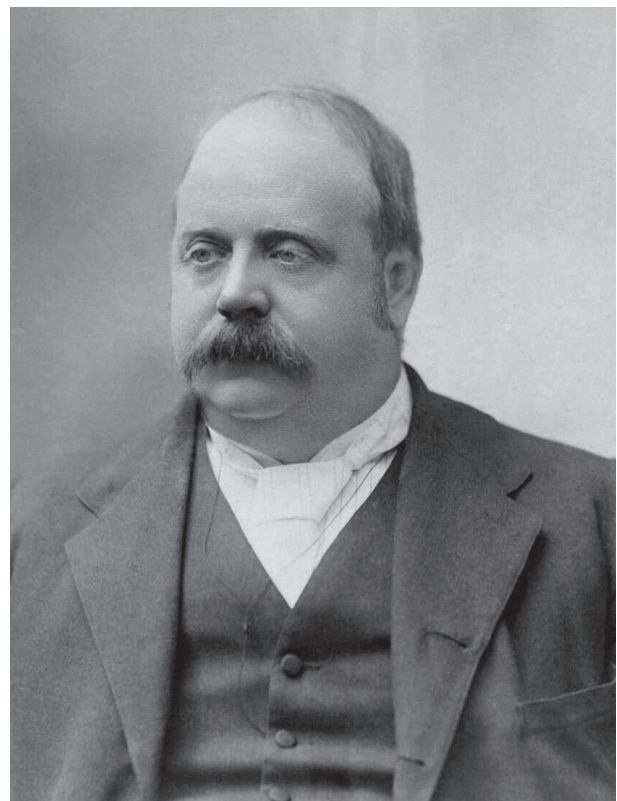
George Reid and the Yes-No politics of referendum success

[George Reid](#) was a larger than life character who cartoonists loved to [draw](#). He was a cunning and successful politician, who was both Premier of New South Wales and [Prime Minister](#) of Australia. He later became Australia's first High Commissioner to London and was elected to the UK's House of Commons. He therefore served in three different Parliaments in his life. Perhaps his most important role was in helping secure the federation of the Australian colonies in 1901.

Reid was born in Scotland and arrived in Australia with his family as a seven year old. He left school at the age of 13 and joined an accountancy firm in Sydney. At 15 he became interested in politics, joined a Debating Society, and soon became an accountant for the NSW Colonial Treasury. He was quickly promoted up its ranks.

It was on economic issues that Reid was most passionate. He strongly supported 'free-trade' amongst the Australian colonies and was opposed to the 'protectionist' policies of Victoria. Protectionism meant protecting jobs and industries in a colony from outside competition, such as by imposing taxes on goods coming from outside the colony, or paying amounts known as 'bounties' to producers of goods within Victoria so their goods were cheaper than those of their interstate competitors. Reid, instead believed that the prosperity of all would grow through free-trade and competition. He wrote a book called *Five Free Trade Essays* when he was just 30, which he used partly as a means of self-education, but mostly to bring his name to prominence. It was effective and he became well known in political circles.

Reid next took up law, as a spring-board to entering Parliament, which he achieved in 1880. While both Reid and [Sir Henry Parkes](#) were free-traders, there was an ongoing feud between them, and Reid refused to serve in Parkes's Governments. When Parkes suddenly started to campaign for federation in 1889, Reid was suspicious. During the 1891 Convention in which a draft Constitution was prepared, Reid was worried that free-trade would be undermined by the protectionist policies of the Victorians. He was also unhappy about equal representation of all States in the Senate, as it reduced the power and representation of New South Wales.



George Reid | c. 1890 Source: National Library of Australia

When Parkes resigned the leadership of the free-traders, Reid took over. He became Premier in 1894 and encouraged a fresh start for federation with a revised Constitution. He invited his fellow Premiers to a conference, where they adopted a proposal, made in Corowa by [Dr Quick](#), that a new Constitutional Convention be elected and that once it had finished drafting a Constitution, it should be put to a referendum in each colony. Reid was elected as a delegate to the 1897 Convention and chair of its Finance Committee.

The British and the secret plan to change the Constitution

Although the new Constitution was being debated and drafted in Australia, it was the British Parliament that would pass the law that gave it force. This was because the new federation would still be a colony of Britain, but also to give the Constitution the higher status of a British law, which could not be changed by any ordinary statute of the Commonwealth or State Parliaments.

But in 1897, the British Government did not like some parts of this new draft – especially the bits about treaties and foreign affairs – that suggested this was a Constitution for an independent nation, rather than a colony. But how could the British demand changes without enraging the Australians? The British Government's cunning plan was secretly to give three documents to George Reid, showing the changes they insisted on, and others they thought might be helpful, and getting him to suggest them as his own changes. Reid agreed to do so. Many of the changes were made, including removing the parts concerning treaties. Only a tiny handful of people knew that the British had intervened. Everyone else thought these were all Australian ideas.

The 1898 Referendum Campaign and 'Yes-No Reid'

Once the Constitution was finalised, it then had to be approved by the people in each colony in a referendum. The people of New South Wales looked to their Premier, George Reid, to see what he advised. For most of the campaign, he maintained an enigmatic silence. Eventually, he gave a speech at the Sydney Town Hall. For two hours he kept his audience in suspense as he examined the draft Constitution, attacking it here and supporting it there. Finally, he announced that he would not be a 'deserter to the cause' of federalism and would vote for it himself, but he



Cartoon satirising the visit of Victorian premier Sir George Turner and New South Wales premier Sir George Reid to the United Kingdom in 1897
Source: National Library of Australia

would not advise voters one way or another how to cast their vote. This mixed message resulted in him gaining the nickname of 'Yes-No Reid'.

The 1898 referendum failed in New South Wales, because although a slim majority of voters voted for federation, the law required that at least 80,000 do so (because there was no compulsory voting in those days, and they didn't want an important matter to be passed by a small number, if only a few people bothered to turn out to vote).

Seeing that a majority of people in New South Wales still wanted federation, along with much larger majorities in Victoria, Tasmania and South Australia, Reid became fully committed to the federal cause.

He called a meeting of Premiers and proposed a number of changes, which he argued, would be sufficient to cause New South Wales to vote for the referendum on a second occasion. The other Premiers were sceptical, but eventually agreed to meet. Reid succeeded with most of his proposals, although some qualifications were imposed.

One of the sticking points was where the capital city would be. The people of New South Wales did not want it in Melbourne, and the Victorians did not want it in Sydney. The compromise reached was that it would be in a separate territory, surrendered by New South Wales, and at least 100 miles from Sydney. In the meantime, the Commonwealth Parliament would sit in Melbourne.

Campaigning with gusto for the second New South Wales referendum in 1899, Reid was heckled in the town hall meetings by people yelling 'Yes-No' at him. He strode to the front of the stage and shouted back, in mock indignation, 'That is absolutely false – the exact opposite is the truth: I was No-Yes!' The laughter and his willingness to own his nickname may well have won him more support. This time, the referendum passed easily in New South Wales, and eventually in all the other Australian colonies. Federation was won.

But Reid's No-Yes switch on federation had earned him enemies on both sides. He had fallen out with Barton, who ran against him in the next election, and lost the support of Labor Party members too. In September 1899, Reid's opponents passed a vote of no confidence in him. He sought an election, but the Governor, [Lord Beauchamp](#), exercised a reserve power to refuse him the election, so Reid was forced to resign. Had it not been for this, he would have been offered the post of first Prime Minister of Australia, as he would have been Premier of the most senior colony. But it was not to be. He later served as Prime Minister, but for just less than a year, from August 1904 to July 1905.





Teacher Reference Document 39



AUSTRALIAN
CONSTITUTION
CENTRE

Unit 5: Australian identity, federation and the Constitution including the intentions of the framers – Year 6 - Civics and Citizenship (C & C) Strand: Citizenship, Identity & Diversity

Topic 6.1: How and why the Australian Constitution came to be

Henry Bournes Higgins and freedom of religion

Henry Bournes Higgins was involved in the drafting of the Constitution and later became a High Court judge. He had a role in getting protection for freedom of religion in the Commonwealth Constitution and protecting the rights of workers.

Higgins was born in Ireland in 1851, one of eight children. He had a stutter and poor health as a child, which limited his education. He worked in warehouse and retail jobs. After his older brother died from a lung disease, the whole family decided to migrate to a better climate in Victoria, Australia. Arriving as a nineteen year-old, Higgins turned his life around. He gained his school qualifications and worked his way through a law degree at the University of Melbourne while teaching and tutoring to earn a living. He chose law because it would force him to overcome his stutter in order to speak in court. Higgins became an extremely successful and prosperous barrister. Once he had conquered this field, his eyes turned to politics.

Higgins was unsuccessful in his first run for Parliament in 1892, but succeeded in 1894. By then the Victorian economy had crashed. He supported legislation to introduce a minimum wage in those industries worst affected by the financial depression. This stimulated his interest in industrial relations, which was later to become significant in his life.

Higgins was elected as one of Victoria's delegates to the Constitutional Convention of 1897. He was instrumental in the insertion of a provision in the Constitution that allowed the Commonwealth to make laws about resolving inter-state industrial disputes. He would have liked to extend it to all industrial disputes, but knew that he would not be able to get a majority of the Convention to support that.



Portrait of Henry B. Higgins | Foster & Martin
Source: National Library of Australia

Higgins and freedom of religion

The 1891 draft of the Constitution contained a section concerning freedom of religion. It was one of the very few 'rights' included. But it applied only to the States. Why? Because only the States, not the Commonwealth, had the power to make laws about religion. It was later removed as an unnecessary invasion of State legislative power (as were many other provisions).



Meanwhile, [Patrick McMahon Glynn](#) had been arguing for the inclusion of a reference to God in the Constitution. His initial attempt to insert the phrase 'invoking Divine providence' in the preamble was defeated at the Adelaide Convention of 1897. Barton had objected, noting that 'there are some occasions on which the invocation of the Deity is more reverently left out than made'. He did not think it was up to the framers of the Constitution to judge whether voters went to the polls to approve federation while invoking Divine providence. This was certainly not a judgement that could be made before the poll was even held. He implied that it would be wrong to commence the Constitution with a falsehood, even if a pious one.

After a large number of public petitions were received from across the colonies, Glyn finally succeeded in 1898 in getting the words 'humbly relying upon the blessing of Almighty God' inserted in the preamble. He regarded the words as 'unsectarian'. God was intended to extend beyond a Judeo-Christian God to the God recognised by other religions. The phrase was intended to unite all creeds and give rise to a spirit of tolerance.

This raised concerns for Higgins. He had come from a religious background, as his father was a Methodist minister, but he had ceased to follow organised religion.

3rd Commonwealth Government |
Attorney-General H.B Higgins on
the left sitting next to Prime
Minister Chris Watson
Source: National Library of
Australia

Higgins wanted protection for those that had a religion and those that did not. He was worried that the reference to God in the Constitution could encourage an interpretation of Commonwealth legislative powers that allowed them to be used to make laws concerning religious matters. For example, the power to make laws with respect to marriage and divorce, defence (regarding defence force chaplains) race (regarding religious practices of particular races) and trading and financial corporations (regarding Sunday trading laws) all potentially allowed the Commonwealth to legislate about religious matters.

The Seventh Day Adventists, in particular, were concerned about the imposition of laws banning Sunday trading. They celebrated the Sabbath on Saturday and did not want their members to be prohibited from trading on Sunday, as this would mean they would lose two days' work (in a time when people usually worked 6 days a week). They campaigned for a provision to prevent the Commonwealth enacting laws concerning religion.

Their concerns were taken up by Higgins, who proposed the inclusion of [section 116](#) of the Constitution.

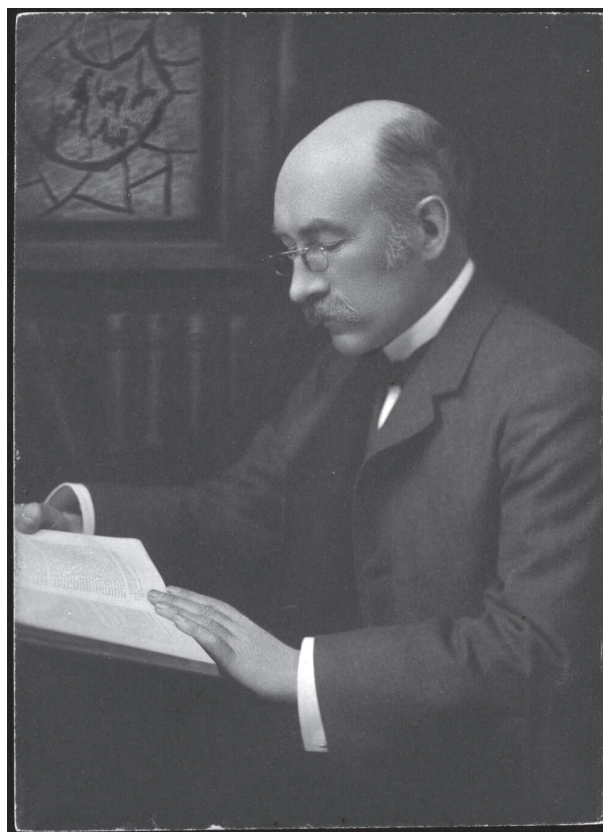
The wording is borrowed, in part, from the United States Constitution – some from the First Amendment and the rest from Article VI, section 3. The High Court, in interpreting the provision, has taken into account the similarities to, and differences from, the US provisions.

Section 116 is located in the Chapter of the Constitution concerning the States, even though it only binds the Commonwealth and not the States. This might be because this is where the original provision was placed, which did apply to the States, or it might be that at the end of the drafting process, the framers could not find a better place for it, without mucking up the rest of the careful numbering and ordering of sections. Its placement, however, does cause confusion. Two referendums have been held (in 1974 and 1988) to extend the application of section 116 to the States, but both failed.

Higgins, the Constitution and the High Court

Despite contributing to the draft Constitution, Higgins was still unhappy about the outcome and eventually chose to campaign against it in the referendums of 1898 and 1899. But in Victoria, he was a voice in the wilderness and got little support. This made him unpopular with the federalists. He also caused controversy by opposing the contribution of Australian forces in 1899 to the Boer War, arguing that the war was 'unnecessary and unjust'. These unpopular stances caused him to lose his seat in the Victorian Parliament.

Not long afterwards, however, he was elected to the Commonwealth Parliament, having adopted Labor policies (but not formally joining the Labor Party). When Labor's short-lived Government was formed under Chris Watson in 1904, Higgins became Attorney-General even though he would still not join the Labor Party.



Portrait of Justice Henry
Bournes Higgins
Source: National Library
of Australia

When the High Court was expanded from three to five members in 1906, Higgins was appointed to one of the seats. Higgins was appointed with a view to replacing Justice O'Connor as President of the Commonwealth Court of Conciliation and Arbitration.

In this new role, in the [Harvester Case](#), Higgins set down principles for establishing a fair minimum wage. These took into account that a wage-earner was entitled to marry and raise a family, and should be able to support them upon a fair minimum wage. Higgins was regarded as 'sympathetic and fair-minded' by workers, but was not appreciated so much by employers.



Teacher Reference Document 40



AUSTRALIAN
CONSTITUTION
CENTRE

Unit 5: Australian identity, federation and the Constitution including the intentions of the framers – Year 6 - Civics and Citizenship (C & C) Strand: Citizenship, Identity & Diversity

Topic 6.1: How and why the Australian Constitution came to be

Robert Garran and the fight against 'fake news' in the referendums on the Constitution

[Robert Garran](#) knew about news. His father was the editor of the *Sydney Morning Herald*. Garran lived with his family in a terrace house on Phillip Street in Sydney, which is now the heart of the legal district. His mother kept a cow in the backyard, because she didn't trust the milkman. After the cow had been milked each morning, it would take itself off to walk to the Domain to graze, returning home for the next milking session. Young Robert, like the cow, was also off on foot each weekday. First to his school at Sydney Grammar, on nearby College Street, but then in the afternoon to the clatter and buzz of the offices of the *Sydney Morning Herald* in Pitt Street.

Despite having printer's ink flowing in his veins, Robert did not become a journalist. Instead, he went to Sydney University, where he studied classics and mathematics and won the University medal in the School of Philosophy. He then studied law and was admitted as a barrister. He expected that he would lead a 'quiet and blameless life' as a barrister in a world that was dull and uneventful.

As a new barrister in 1891, he often did not have much work and would wander around the corner to Parliament House to watch debates. It was there that he saw the sitting of the Constitutional Convention of 1891 and he was hooked. He became a passionate supporter of the idea of federation and watched from the public galleries as the draft Constitution that Sir Samuel Griffith and others revised on the Queensland Government's boat, *The Lucinda*, helped turn a vague aspiration into a blueprint for a nation.



Robert Garran, aged about 14 years
Source: ANU Open Research

Unfortunately, no one had really thought through how to progress federation after the Convention was over and the draft Constitution was completed. It was left to each of the colonies to deal with, and New South Wales killed it off. The new Premier, George Reid, was initially not keen on the idea of federation and nor was the up and coming Labor Party.

Garran, however, was full of youthful enthusiasm. He volunteered to help Edmund Barton, who was one of the leaders of the federation movement, to try to revive the prospects of federation.

Garran found that he could use both his lawyer's skills to make arguments and his journalistic skills to write articles and satirical poems in the newspapers, attacking the anti-federalists.

Garran was honoured when Sydney University asked him to prepare a course of lectures. He chose the topic of 'federal government', because the political system of federation was still little known in Australia. He was initially devastated when not a single person chose to enrol in his classes. But he decided to make the most of it by turning his lectures into a book – *The Coming Commonwealth*. It was published just in time for the new Constitutional Conventions held in 1897. This time most of the Convention delegates were popularly elected. They quickly needed to educate themselves on the issue. So the first thing they did was buy Garran's book. Garran had turned disaster into triumph and his book sold out! All of a sudden, despite still being a young man, he was seen as an instant authority on federalism.

Garran was invited to attend the Convention as the assistant to the NSW Premier, George Reid. But once Barton was elected as leader of the Convention, he appointed Garran as secretary of the drafting committee of the Convention. So there he was, on the spot for every argument, every idea and every word change. He saw it all and stayed up with Barton and the rest of the Committee, working on drafts overnight, often until 4am or 5am, to have a fresh draft for the Convention to work on the following day.

When the Constitution was completed and was put to the people in a referendum campaign, Garran was at first horrified by the misinformation and 'fake news' that was being spread in the media about federation. There were claims that taxes would quadruple to support the poorer States and a blizzard of alarming figures blew across the colony. According to Garran, the anti-federalist *Daily Telegraph's* 'plan of attack was to launch each day a new bombshell – or, as we put it, to dress up a new bogey – with little care for consistency. It became a porcupine of bogeys, shooting its quills in every direction.'

So Garran, being familiar with how newspapers worked, formed an editorial committee of writers who supported federation. They got in touch with around one hundred country newspapers, and offered them articles countering the anti-federalism arguments. The country papers were extremely grateful and published this material daily across the colony. Garran's committee churned out fresh material, day and night. It was a full-time job with no pay but the ultimate reward would be the success of federation.



Sir Robert Garran | 1922
| Bernard Hall
Source: National Portrait Gallery

Garran's committee got hold of the program of visits that the key anti-federalists were making to towns across the colony, and they got there first, handing out pamphlets and handbills showing in one column what the anti-federalists claimed, and in the other column what the proposed Constitution really said. By the time the anti-federalist speaker arrived to speak, the audience had already been persuaded and was full of hecklers. Campaigning in those days mostly took place in town halls, on street corners and from pub balconies. Garran was a frequent speaker opposite his far more senior opponents, such as the Chancellor of the University of Sydney and the Attorney-General. He later remembered that it 'was a great joy to us young graduates to trounce our revered Chancellor... and an equal joy to us young barristers to trounce our Attorney-General. Altogether, we found life very good.'

That optimism was brimming on referendum day. To pass in New South Wales, not only did the referendum need majority approval, but it also needed at least 80,000 Yes votes. As the votes were counted, they were recorded on a massive board outside the office of the *Sydney Morning Herald*. Garran, Barton and their friends hired a room in a hotel opposite from where they could

watch the count. When the numbers ticked over to 80,000 they went wild with joy. Barton nearly fell out the window while shouting triumphantly to the crowd below. Then the Manager from the *Herald* burst into the room. There had been a double-counting error. The compulsory 80,000 had not been reached. What should he tell the crowds? Barton said that if he valued his windows, he should end the count and tell people of the error in the morning.

Garran remembered: 'Sadly, we went home. But for ten minutes we had been federated! We had tasted victory. And – we had a majority; and in the other three colonies there were big "Yes" majorities... Next morning we were up and at it again'.

After changes were made to the Constitution at a Premiers' meeting, another referendum was held. The *Daily Telegraph* started up its campaign against federalism again – and Garran revived his editorial committee. Every day he published an article in the *Evening News* countering the stories in the *Daily Telegraph* from that morning. But this time the referendum was a success. Federation was eventually approved by all the colonies, and Garran and his editorial team countering the 'fake news' of the day played a major role in that achievement.

Garran went on to become the head of the Attorney-General's Department for decades and also Solicitor-General of Australia. He advised Governments on the Constitution that had been drafted before his eyes. He was the person who was 'in the room where it happened' who lived longest into the 20th century. When he died in 1957, he was given a state funeral.





Teacher Reference Document 41



AUSTRALIAN
CONSTITUTION
CENTRE

Unit 5: Australian identity, federation and the Constitution including the intentions of the framers – Year 6 - Civics and Citizenship (C & C) Strand: Citizenship, Identity & Diversity

Topic 6.1: How and why the Australian Constitution came to be

Patrick Glynn - The man who put God in the Constitution

Patrick (Paddy) McMahon Glynn was an Irish Catholic, born in Galway, Ireland, in 1855. He was the third of eleven children of a storekeeper. He studied hard at school, won prizes and studied law in Dublin and London, before becoming a barrister in Ireland. But he could hardly get any work, so he sailed to Melbourne, hoping to be more successful in the colonies.

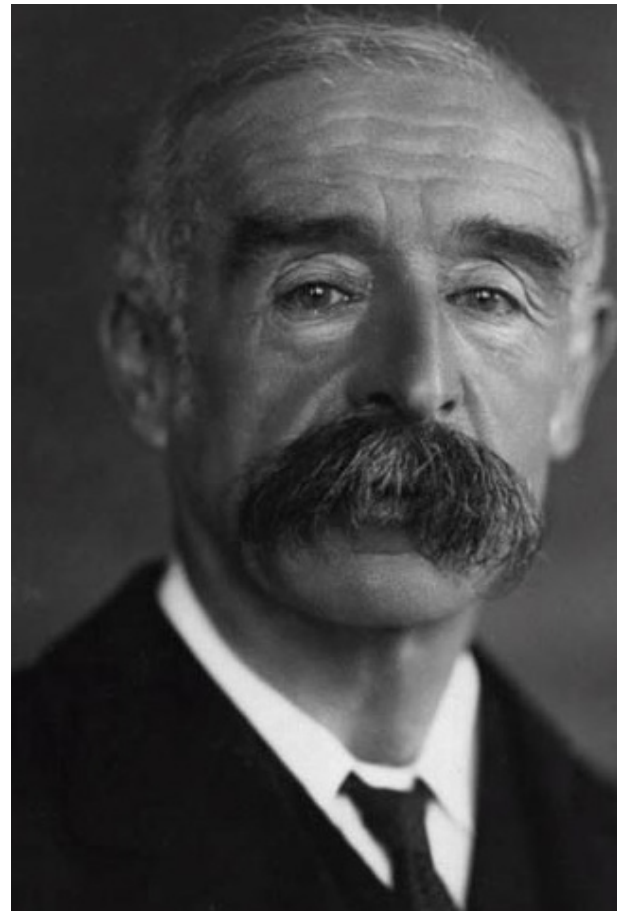
In Melbourne, it was even worse. He wrote to his brother that 'trying to get business here as a stranger is like attacking the devil with an icicle'. To earn enough money to survive he became a travelling salesman of sewing machines. He was often hungry and homeless.

His luck finally changed through the intervention of an aunt, who had come to Australia and joined [Mother Mary MacKillop](#) in founding the order of the Sisters of St Joseph. She recommended him to an Adelaide law firm, which employed Glynn to open a branch office in the rural town of [Kapunda](#). Through hard work, Glynn gained the trust of the locals and earned enough money to buy the legal practice. He also became editor of the Kapunda Herald, giving him significant local influence. His articles were so informative they began to be published in Adelaide newspapers. This opened doors for him into the political society of Adelaide.

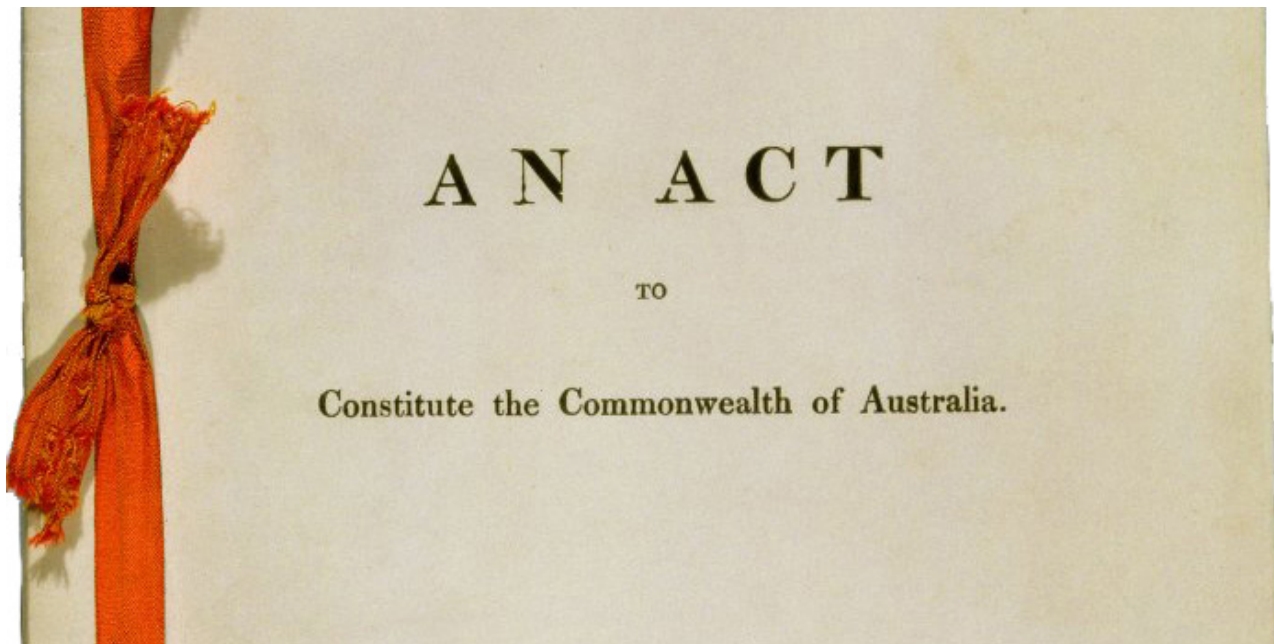
Politics, Catholicism and women

In 1887 Glynn was elected to the South Australian Parliament. Some saw him as a conservative, because he supported free trade, while others saw him as a liberal, because he supported votes for women and reforming the upper House. But it was his support for Catholic causes that most damaged his electoral prospects.

During his 1890 election campaign, he argued in favour of providing grants, per student, to non-government schools, including Catholic schools. This was a highly controversial issue at the time, and Glynn lost his seat in Parliament. Glynn won his seat back in a by-election in 1895. This time he tried to stay silent on the issue of funding for Catholic schools. The 1895 by-election was the first time that women were able to vote in South Australia, and as Glynn had been a strong supporter of female voting, women supported him at the polls in exercising their hard-won vote.



*Patrick Glynn | 1913 |
Source: Australian
Catholic University*



*Commonwealth of Australia
Constitution Act, 1900: Original Public
Record Copy (1900)
Parliament House Art Collection, Art
Services Parliament House*

The following year, however, the South Australian Government decided to hold the first ever referendum in Australia at the same time as the general election. The [referendum](#) was on whether scripture should be taught in government schools, whether grants should be made to religious schools and whether the system of non-religious government schools should remain in place. This meant that religion played a significant role in the election. One consequence was the Glynn again lost his seat in Parliament. The majority voted in favour of a secular education system and against teaching scripture in government schools and giving grants to religious schools.

Another factor in his loss was that Glynn was one of the few candidates who complied with the electoral law. In 1895 he had been given the task of re-writing the electoral law, in which he had set out penalties for paying to transport voters to polling places or paying election campaigners. Glynn felt obliged to obey the law that he had written, even though other candidates ignored it. So he lost the election and went back to the law and journalism.

But in 1899, at the next election, he won his seat back. Again, this was through the support of women. [Catherine Helen Spence](#) chaired women's meetings in support of Glynn and other women cycled around his electorate, campaigning on his behalf.

Glynn, God and the Constitution

Glynn was elected as a South Australian delegate to the 1897 Constitutional Convention. He was greatly respected for his legal skills and his knowledge of constitutional matters.

Glynn's best known contribution to the Constitution was his insistence that it record an acknowledgment of God. Initially he tried to alter the preamble to the Constitution Act (ie its introduction) by saying that the people, when they voted for the Constitution, were placing their reliance on God. But Edmund Barton objected that no one could say what voters would be thinking when they approved the Constitution, especially before it had even happened. He didn't think that the Constitution Act should start with a falsehood. Glynn's idea was rejected.

This did not stop him. He encouraged towns and churches across Australia to send in petitions calling for recognition of God in the Constitution. Thousands flooded in. Pressured by the popular will, the other founding fathers gave way to Glynn's campaign. He succeeded in changing the [preamble](#) to the Constitution Act so it said that the people, 'humbly relying on the blessing of Almighty God', agreed to unite in a federal Commonwealth.

Glynn saw these words as unifying ones that would overcome the differences of religious forms and give rise to a 'spirit of toleration'. He wanted it to be an antidote to materialism and to lift us higher than the realities of the day. The reference to 'God' was not intended to be confined to a Christian God. It was intended to include the idea of God in the Hindu, Islamic and Jewish religions, amongst others. Glynn saw religion, rather than law, as what bonds people together and gives them unity, by allowing moral progress to win over greed and selfishness.

Life and marriage

Glynn was a short man (163cm) with a large moustache and a huge personality. He was a fearless horse rider who could recite Shakespeare for any occasion. But for all his success, he was lonely. He couldn't find a fellow Catholic, of the same social standing, to marry.

When Glynn was at the 1897 Sydney Constitutional Convention, in the middle of a boring debate about tax, he was struck with the inspiration to write to a 29 year old woman, Abigail Dynon, who he had once met a year or two earlier in Melbourne, to propose marriage.

He posted the letter in Sydney on Tuesday. Abbie received it in Melbourne on Wednesday, and accepted Glynn by a telegram which he received at 11pm on Wednesday night. On Thursday he made a speech at the Convention about equal representation of the States in the Senate. He then caught the overnight train to Melbourne, arriving on Friday morning to make marriage preparations. On Saturday he and Abbie were married and then took the evening train back to Sydney. Glynn arrived back at the Convention first thing on Monday, a married man, much to the amazement of his fellow delegates.

Despite what *The Bulletin* called his 'meteor-like rush into matrimony', the marriage was a successful one, as they were well-suited to each other. Together they had eight children and lived a long and happy married life.

Glynn became a member of the first Commonwealth Parliament, in which he served for almost 20 years. He expressed his devotion to God through his service to the people, including as a Commonwealth Minister for many years. He was a tireless advocate for fairness and to improve the well-being of the people of Australia.