

**Australasian Pioneers' Club Annual Dinner**  
**United Service Club**  
**4 August 2000**

***"Led in, but now leading: Queensland and Federation"***

**The Hon Paul de Jersey AC, Chief Justice of Queensland**

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It is a great pleasure to be with you this evening. You are driven by a deep interest in things pioneering and historical. As a judge, I am obliged to declare any material interest: I willingly record my own curiosity for days past.

My involvement with the Centenary of Federation Committee has been diverting. You may have seen advance warning of an array of fascinating events commemorating our centenary. Queenslanders, along with all Australians, will celebrate a century of union, and rightly so! Yet a hundred years ago, our forefathers and foremothers were many degrees less eager to embrace federation.

Queensland's role in the federation story was ... chaotic, topsy-turvy, in respects I will shortly develop. Queenslanders' particular sense of Australian commercial and strategic interests in the south-west Pacific, and Sir Thomas McIlwraith's lunge for annexation of East New Guinea in 1883, have been credited with provoking the first serious thought of colonial federation.<sup>1</sup> But perhaps most remarkably, we can claim as our very own one of the most enthusiastic "fathers of federation": Sir Samuel Walker Griffith. Yet Queenslanders, or at least those property-holding males who met franchise requirements,

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<sup>1</sup> Bolton, G and Waterson, D. "Queensland". In H Irving (ed) 1999. *The Centenary Companion to Australian Federation*, Cambridge University Press, Cambridge, pp 93 – 127, p 94

were less convinced of the merits of federation – Queensland eventually passing the referendum by the smallest margin of any colony.

May I first speak a little of the great Sir Samuel Griffith? There is a tendency to tilt at perceptions of his public contribution – and that I deprecate! It was unarguably immense.

He was Premier, and then the third Chief Justice of our state (after Cockle and Lilley), and was appointed in 1903 as Chief Justice of the High Court of Australia. That appointment carried the particular significance of his being the *first* Chief Justice of that court.

This truly great administrator, judge and draftsman, had been educated at Sydney University, where he was irreverently tagged “oily Sam”, for his “ability to argue on any side of any subject”. In 1863, when only 18 years old, he applied for the headmastership of Ipswich Grammar School<sup>2</sup>: a degree of vanity? Called to the Queensland Bar in 1867, a mere 9 years later he took silk, whizzing to professional preeminence.

The man’s robustness extended to his running concurrently a successful career in politics: courageous and persistent. His allegation of corruption against Premier McIlwraith was dismissed by a Queensland Select Committee in 1880, and again by an enquiry in London. Yet Griffith persisted locally, eventually losing a motion censuring McIlwraith,

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<sup>2</sup> Murphy, DJ & Joyce, RB *Queensland Political Portraits 1859-1952* (Brisbane, 1978)

following a parliamentary session in which he - Griffith - is said to have spoken continuously for seven (7) hours<sup>3</sup>!

Eleven years into his parliamentary career, he took the reins as State Premier in 1883, for a four and a half year term, and later in 1890. Then he retired from politics to take up his appointment as state Chief Justice. Extraordinarily enough, he had to that point also maintained a full legal practice: even during his terms as Premier he had remained undisputed leader of the bar.

Apart from implementing ground-breaking legislative reforms within Queensland, Griffith also actively involved himself - as is well known - in the move towards Australian federation. This began with his role in the formation of the Federal Council of Australia. Sir Harry Gibbs reminds us that “Griffith in fact prepared the draft on which the Imperial Legislation which set up that body was based”<sup>4</sup>. It proved ineffectual as a body, but did lay the foundation for the National Australasian Convention held in Sydney in 1891. Not surprisingly, Griffith keenly supported that Convention. He was a key figure. In the words of Alfred Deakin, he “was lean, ascetic, cold, clear, collected and acidulated... no other representative rivalled him”<sup>5</sup>.

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<sup>3</sup> *Ibid*

<sup>4</sup> *Ibid*

<sup>5</sup> *Ibid* p. 287

Once again his skills as a draftsman were clear through his draft Constitution, Deakin observing that “ as [a] whole and in every clause the measure bore the stamp of ... Griffith’s patient and untiring handwork, his terse, clear style and force of expression...Few even in the mother country or the United States...could have accomplished...such a piece of draftsmanship with the same finish and in the same time”<sup>6</sup>. By the Second Convention in 1897, Griffith had risen from the political world. But his fine tuning continued. Professor La Nauze has said “it is fitting that the final form of the Constitution contains not only much of Griffith’s text of 1891, but his lofty corrections of the words of the later and lesser draftsmen of 1897”<sup>7</sup>.

Griffith’s major state achievement while Chief Justice of Queensland was the drafting of the Criminal Code, still of monumental impact here and internationally.

If he had a deficit, it may have lain in lack of the Italian flourish! He presumed to translate Dante’s “Divine Comedy”: Sir Julian Salomans reportedly asked Griffith to inscribe his copy, “from the author,” as “he would not like anyone to think he had stolen it, still less bought it”<sup>8</sup>. (Salomans was the New South Wales Chief Justice who, appointed in 1886 to succeed Sir James Martin, declined to be sworn in, to avoid public

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6 Joyce, RB, *Australian Dictionary of Biography for Windows*, Melbourne University Press, p.11

7 *Ibid* p.11

8 *Ibid* p.290

controversy – he was concerned about hostile response to his appointment from existing members of the New South Wales Supreme Court bench.)

In 1903 the High Court was established by Griffith's Judiciary Act. That heralded a new stage in the jurist's brilliant career, with appointment as Chief Justice of that Court.

The most significant lawyer Australia has ever seen? Many would say "yes". Sir Samuel Griffith died in his beloved Queensland in August 1920 at the age of 75: truly one of the nation's great "founding fathers".

Yet Queensland's reluctant entry into the Australian federation dismally failed to reflect Griffith's own tireless efforts for the cause. It is widely recognised that while Queensland led the federal movement with Griffith as Premier, it "dropped hopelessly to the rear" with his appointment as Chief Justice<sup>9</sup>.

The Supreme Court Library will pay tribute to Griffith's role next year with the "Lucinda" project – replicating the smoking room of the Queensland government yacht. It was there Griffith led his hand-picked committee to draft a constitution bill. Lovers of things historical will be enticed by that display, to stand adjacent to the court's exotic Rare Books Room.

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<sup>9</sup> Deakin, A. 1995. *And be one people: Alfred Deakin's Federal Story*, Melbourne University Press, Melbourne, p 59; Johnston, W.R. 1988. *A Documentary History of Queensland*. University of Queensland Press, Brisbane, p 330

Why were colonial Queenslanders lukewarm about federation? The causes spread as vastly as the state itself. In the north, for example, the prospect of free trade and ready markets excited cane farmers: a chance to rebuff Brisbane's economic domination. But a threat of competition from further south intimidated the farmers and industrialists of southern Queensland.<sup>10</sup> Economic and regional considerations ruled here, not the idealism sparking other colonies.<sup>11</sup>

To an extent southern Queenslanders' fears were realised – federation ensured Queensland's rural-based economy would continue, its manufacturing industry unable to compete with those of the other states. In fact by 1904, the proportion of the Queensland population employed in manufacturing industries was lower than that of any other state.<sup>12</sup>

The strongest ultimate support for federation came from north and central Queensland, where Separationist Movement enthusiasts saw it as the most likely means to fragment Queensland.<sup>13</sup> Agitation for division into three distinct states had existed since Queensland's own separation from New South Wales in 1859. The source of discontent?

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10 Fitzgerald, R. 1982. *From the dreaming to 1915*, University of Queensland Press, Brisbane, p 297, *Op cit* 1 p 98, Centenary of Federation webpages – “The Federation Story : The Queensland Story”, [www.federation.qld.gov.au/qld\\_story\\_overview.html](http://www.federation.qld.gov.au/qld_story_overview.html)

11 Fitzgerald, R, 1982, p 299; “The Federation Story : The Queensland Story”

12 *Ibid*

13 “The Federation Story : The Queensland Story”; Centenary of Federation webpages – “Tom Roberts and the picture of Federation”, [www.federation.qld.gov.au/professorburton/roberts\\_painting\\_and\\_federation.html](http://www.federation.qld.gov.au/professorburton/roberts_painting_and_federation.html)

Perceived disproportionate public expenditure throughout the state at the hands of an under-representative Brisbane-based government.<sup>14</sup> North Queenslanders cried foul - they produced a third of Queensland's revenue, yet were represented by only three of 32 parliamentarians.<sup>15</sup> The Rockhampton- based Separation League even petitioned the Secretary of State for the Colonies, the Duke of Newcastle, protesting about "that which Englishmen have ever been taught constitutionally to resist – taxation without representation".<sup>16</sup>

That separationist sentiment would exist was probably inevitable in Queensland – and as we know probably still is – if now mostly latent! Considering the state's enormity, it hardly surprises that separationists branded a Brisbane-based government "out of touch".<sup>17</sup> The colony exhibited uniquely strong decentralisation. Unlike the "fan model" of other states, where colonies developed slowly, following lines radiating out from the capital, Queensland settlers intrepidly trekked inland from a range of east coast ports; and there were settlements in Rockhampton and Townsville strong enough to rival Brisbane.<sup>18</sup>

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14 "Queensland", 1911, *Encyclopaedia Britannica*, 11<sup>th</sup> Ed, Vol 21-22, p 739, "The Federation Story: The Queensland Story"

15 "The Federation Story : The Queensland Story"

16 McDonald, L. 1981. *Rockhampton.*, University of Queensland Press, Brisbane, p 541

17 *Op cit* 15

18 *Ibid*

Separationist sentiment was immensely buoyant in those areas. Fomented by local newspapers, large crowds went to public meetings, and the people in turn importuned local colonial government and petitioned British authorities. The in no way strident women of Rockhampton formed their own movement in 1892, holding women's cricket matches to raise money, ultimately petitioning the Queen with a document signed by as many as 4, 000<sup>19</sup>.

But all in vain. While in office Sir Samuel Griffith remained staunchly opposed. Anticipating modern Britain, he sought to counter full separation by lesser devolution to regional authorities. In 1887, for example, he offered financial control to the regions, while in 1890 he introduced a Decentralisation Bill which would have erected separate legislatures for each region. His measured proposals, like those of the more radical separationists, met lukewarm reception in the parliament.<sup>20</sup> And British authorities were evasive when repeatedly petitioned: it was in their own economic interests for Queensland to remain a single colony.<sup>21</sup>

For a moment success seemed at hand in 1897, when in the midst of debating federation, parliament considered a resolution affirming the central and northern divisions as

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19 *Op cit* 16, p 551

20 "Queensland", 1911, *Encyclopaedia Britannica*, p 739, *Op cit* 15, Centenary of Federation webpages, "The federation story – Sir Samuel Griffith", [www.federation.qld.gov.au/samuel\\_griffith.html](http://www.federation.qld.gov.au/samuel_griffith.html), *Op cit* 1, p 95

21 *Op cit* 15

separate colonies. The vote was tied, 20 votes each way, and so carried by the Speaker's casting vote. But the resolution was ignored, and a bill never enacted!<sup>22</sup>

Separationists actively turned their frustrated attention after 1897 to federation. They hoped a federal government would exercise a power to create new states<sup>23</sup>. Federationists fostered this belief,<sup>24</sup> as did Premier Hugh Nelson.<sup>25</sup> Secretary of State for Colonies Joseph Chamberlain, whose own government's interests favoured a united Queensland and a federated Australia, used the argument in responding to an 1895 central Queensland demand for secession. He advised "the people of Central Queensland will no doubt find the central Parliament when constituted ready to listen to any reasonable scheme which may be submitted to it."<sup>26</sup>

But Queenslanders overall still seemed little interested in federation, by contrast with their neighbours.<sup>27</sup> At the Bathurst people's federal convention in 1896, only two of nearly 140 delegates were Queenslanders. After Griffith's appointment as Chief Justice, Queensland's political leaders failed to pursue his passionate thrust. Neither the rising

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22 *Op cit* 15, *Op cit* 16, p 553

23 *Op cit* 15, Fitzgerald, R, 1982, p 296

24 For example, see Sir Edward Braddon (Tasmania) *Official Records of the Debate of the Australasian Federal Convention, 3<sup>rd</sup> Session*, Melbourne, 1 March 1898, pp 1694-5.

25 Quoted in Fitzgerald, R 1982, p 296-7

26 Quoted in Bolton and Waterson, 1999 (*Op cit* 1), p 102

27 *Op cit* 1, p 107, Encyclopaedia p 739

Labor movement nor the conservative government supported the cause, and Hugh Nelson, to whom Griffith passed the reins of Premier, “affected a genial cynicism” towards federation: he wanted to protect Queensland capitalism.<sup>28</sup> Political lack of interest, and disagreement as to how delegates should be chosen, kept Queensland from the crucial Federal Convention sessions of 1897-8. It was only when James Dickson became Premier that Queensland again actively participated in the federal movement, Dickson securing an invitation to the 1899 Secret Premiers’ Conference.<sup>29</sup>

While imperial loyalties may have influenced Queensland’s attitude to federation,<sup>30</sup> the idealistic support for federation seen in other colonies was not surprisingly less common in Queensland, where the native-born Australian population was the smallest of all the states. Nonetheless, a branch of the Australian Natives Association was somewhat successful in drumming up support, but particularly amongst the inter-colonial workers in western mining fields – reflected ultimately in an over 90% “Yes” vote from these districts.<sup>31</sup> Religious leaders also provided support, Queensland’s Catholic paper “the Australian” strongly supporting federation on 11 August 1899, while the Presbyterians argued federation would produce an “excellent and fruitful mixture of piety and commerce”.<sup>32</sup> But for the Queensland people, federation was generally much less

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28 *Op cit* 1, p 97-8, 101

29 *Ibid*, p 103-4, 112

30 *Ibid*, p 111

31 *Ibid*, p 119

important than other local issues – environmental concerns of farmers as the pastoral frontier rapidly expanded, racial issues like the importation of Melanesian labourers, the influx of Chinese people and clashes with Aborigines.<sup>33</sup>

But Sir Samuel Griffith reliably championed federation to the end! Along with other ardent federationists dejected by Queensland inaction, he founded the “Queensland Federation League” in Brisbane in July 1898. Most active from April 1899, it sought to excite Queenslanders about the cause. The league mobilised members, secured funds and established branches in Brisbane, South Queensland, Rockhampton and Townsville. It supplied speakers, campaign material and organizers, sported a new federal flag, and silver and bronze federal badges. Griffith led as President. The *Brisbane Courier* provided editorial support.<sup>34</sup> That league has been substantially credited for the higher than expected “Yes” vote at the ultimate referendum.

The league imported our subsequently thrice Prime Minister Alfred Deakin to enthuse Brisbane and Darling Downs crowds, and our first Prime Minister Sir Edmund Barton, who described the tour as a “triumphal progress”. His words:

“At Toowoomba last night the Hall, holding 1000 to 1200, was packed, and nearly as many were outside. There was great enthusiasm... As to Brisbane, it is hard to exaggerate the enthusiasm which prevailed. The

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<sup>32</sup> *Ibid*, p 116

<sup>33</sup> *Ibid*, p 94

<sup>34</sup> *Ibid*, p 116-7

Hall was said to be capable of holding 2000 people. The Anti Bill organ (Telegraph) set the attendance down as 3000, and the Brisbane Courier at between 2800 to 3000. Every point was grasped with lightning quickness and the speeches were sometimes stopped by the applause – while at the end the cheering was tremendous.”<sup>35</sup>

Yet Barton’s reception was mixed on the eve of the referendum – moving from one venue to another he was mobbed by a hostile crowd. A stranger is said to have wandered to the balcony from which Barton was to make his second address, and, mistaken for Barton, was pelted with stones and rotten eggs.<sup>36</sup> (The urbane Barton went on to become one of the three inaugural High Court justices, conceding the Chief Justiceship to Griffith – with, it is said, “characteristic self-abnegation”.<sup>37</sup>)

Despite the excitement, the next day’s voter turn-out was indifferent, only roughly two-thirds of enrolled voters casting their ballot.<sup>38</sup> The outcome was narrow indeed, the tally of votes in each region telling: while in Brisbane 5, 765 people voted for the bill, 10, 170 were against. South Queenslanders voted 14, 285 for, 22, 398 against. More support was found in central Queensland with 12, 132 votes for, and 6, 862 against, while the most

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35 Barton to Atlee Hunt, 15 May 1899, Dowling Papers, NLA MS 47/346.

36 *Op cit* No 1, p 117-8

37 *Dictionary of National Biography* (Oxford).

38 *Op cit* 1, p 118

overwhelming support for the bill came from north Queensland: 12, 376 voters voting for, only 3, 332 against. And so Queensland limped in to the Australian Commonwealth.

One hundred years on, has Queensland changed in its attitude to this federal compact? Is commemorating the Centenary of Federation meaningful in this state, or merely another cause for largely vacuous celebration during a millennium-mad historical “phase”?

Eminent historians Geoffrey Bolton and Duncan Waterson sought last year to gauge the extent to which Queensland may have become anti-centralist in sentiment, with a two-branch answer.<sup>39</sup> On the one hand, they say, an image of Queensland as the state least at ease with its federal compact has developed over the past century. Seen as early as 1902 when Premier Robert Philp speculated publicly whether Queensland was well served by remaining within the Commonwealth, William Forgan-Smith reinforced the image as the only state Premier to take antagonism to Commonwealth acquisition of uniform taxation power to the point of resignation. And few would forget Sir Joh Bjelke-Petersen’s comment to a Japanese audience - “We are not Australians, we are Queenslanders.”

Yet on the other hand, Queenslanders have never gone as far as West Australians, voting to secede from the Commonwealth. And results from a survey of referenda held between 1906 and 1977 show Queensland as second in readiness to agree to increases in federal

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<sup>39</sup> *Ibid*, p 122

power. Perhaps then, Bolton and Waterson conclude, the Queensland people are simply better Australians than their politicians!

But there is now unquestionably no doubt Griffith did right to influence our forebears into this. In Griffith we see a great Australian who did not forget he was a Queenslander. We, now as many as 3.4 million Queenslanders, also call ourselves great Australians, and in large part for that essentially Queensland feature recognizable for a hundred years – friendly enthusiasm tempered by measured assessment, a characteristic now said to distinguish all Australians! We Queenslanders were rather ‘led’ into federation – albeit by the admirable Griffith: you will excuse a proud Queenslander’s enthusiastically observing that we now lead the federation; though, as I hope a measured Queenslander, I should better put it – we have the capacity to lead the federation!