

## Chapter Four

### Stuart Macintyre and Samuel Griffith: The Report of the Civics Expert Group

John Hirst

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The Keating Labor government has recently embraced one of the aims of The Samuel Griffith Society. The government wants, in the words of your articles of association, "to encourage a wider understanding of Australia's Constitution and the nation's achievements under the Constitution". To that end it appointed a Civics Expert Group, chaired by Professor Stuart Macintyre, to advise it on education in civics and citizenship. I expect that members of The Samuel Griffith Society will have mixed feelings about one of its purposes being taken up by such a champion as Paul Keating.

For most of its history the Australian Labor Party has viewed the Commonwealth Constitution with hostility. When it was being drawn up in the 1890s, representatives of the new Labor Party objected to there being a strong Senate and to the States having equal representation in it. Within ten years of the inauguration of the Constitution, the Labor Party in office made the first of many attempts to gain larger powers for the Commonwealth at the expense of the States. For many years the Labor Party was officially committed to the abolition of the Senate and the creation of a unitary state. Ideologically, the party could see little virtue in federalism, though ironically it was itself organised in a federal way which assisted in the preservation of powers to the States.

If the party was naturally disposed to be centralist, the decisions of the High Court confirmed it in this view. The corporations power and the freedom of interstate trade were interpreted in such a way as to frustrate the implementation of the Labor program.

Since it saw the Constitution as a barrier to its great design, the Labor Party came to view its framers as bourgeois conspirators. Just as the labour movement was gathering its strength in the 1890s, the class enemies had created a Constitution which protected private enterprise: the Constitution had established a true national economy, but had denied the Commonwealth power to control or socialise it.

There was no conspiracy, of course, but much of the historywriting on federation has taken its tone from this Labor view of the Constitution. Federation has been depicted as a business deal, arousing little popular interest, and which was brought to fruition by horse-trading among hard-bitten colonial politicians.

It is remarkable that this was and is the predominant view, because the process of constitution-making in Australia was more open and democratic than that of any of the other great democracies. The framers of the Constitution were elected by the citizens at large, and their handiwork was referred to the citizens for approval at referendum. The Australian Constitution, much more than the American, is entitled to begin with the words 'We the people'. This remarkable exercise in popular sovereignty is not highlighted or celebrated in the standard accounts of federation.

It was highlighted in the first account written by Quick and Garran, who had been participators in the federal movement. Their history of federation formed part of that amazing compendium, the Annotated Constitution of the Australian Commonwealth, which was published in 1900. After recording the figures at the second referendum in 1898, Quick and Garran wrote:

"These figures are a striking proof of the extent and sincerity of the national sentiment throughout the whole of Eastern Australia; and they are also a unique testimony to the high political capacity of the Australian people. Never before have a group of self-governing, practically independent communities, without external pressure or foreign complications of any kind, deliberately chosen of their own free will to put aside their provincial jealousies and come together as one people, from a simple intellectual and sentimental conviction of the folly of

disunion and the advantages of nationhood. The States of America, of Switzerland, of Germany, were drawn together under the shadows of war. Even the Canadian provinces were forced to unite by the neighbourhood of a great foreign power. But the Australian Commonwealth, the fifth great Federation of the world, came into voluntary being through a deep conviction of national unity. We may well be proud of the statesmen who constructed a Constitution which – whatever may be its faults and its shortcomings – has proved acceptable to a large majority of the people of five great communities [Western Australia had not yet joined] scattered over a continent; and proud of a people who, without the compulsion of war or the fear of conquest, have succeeded in agreeing upon the terms of a binding and indissoluble Social Compact."

This, as I say, is not the way federation is judged in the accounts which take their tone from the Labor view of Constitution making. The involvement of the people in electing the convention and approving the Constitution can of course not be omitted, but this aspect of the movement is harmonised with the general interpretation by noticing that the delegates elected were the existing politicians, and that the people voted at the referendums according to whether federation was to assist or harm their economic interests. In these accounts there is no acknowledgment of the imagination necessary to conceive the Commonwealth, nor of the dedication necessary to realise it.

The Labor Party's long quarrel with the Constitution has now come to an end. Labor no longer wants to control and socialise the economy as it once did, and for those matters it does want to control from the centre it now generally finds the Constitution to be no barrier. Labor made formal its peace with the Constitution when, in 1993, Paul Keating visited the River Murray town of Corowa to celebrate the 100th anniversary of the federation conference which first proposed that the people be directly involved in Constitution making.

At that 1893 conference there was no member of the Labor Party present, and the few radicals who proposed that Australia should become a republic were ruled out of order; and yet the Prime Minister attended the celebrations to pay his tribute to the burghers of the Federation Leagues in the border towns, and young men of the Australian Natives Association, who took up the cause of federation after the failure of the 1891 Constitution, and who hit on the method which carried the second movement to success. But Paul Keating at Corowa will give you no joy. You will say: he's only willing to celebrate the origins of the federal Constitution because it has ceased to be federal.

This may be so – but I am pleased that a Labor Prime Minister and the people who advise him are now speaking positively about the founders of our Constitution. For a long time the founders were viewed on the left as no better than bourgeois plotters; then, more recently, they were discovered to be even more seriously flawed – they were male. To describe the founding fathers as Anglo-Celtic males with beards and top hats was enough to render them figures of fun. This is the stereotyping for which there is no penalty. To imagine that such a group could produce anything of value was laughable.

That this view is being officially contested was first evident last year in the report produced by Joan Kirner on how Australia should celebrate the centenary of federation. Mrs Kirner was very impressed by the method of Constitution-making in the 1890s. This was an "unprecedented participatory process", well worthy of celebration. She wants school children to be provided, as soon as possible, with the story of federation in an exciting way. Her committee recommended that each child be provided with a high-tech medallion to mark the anniversary; "a shining golden disc packed with information on our history and achievement; a CD of the federation story". (p.13)

The Macintyre Report on civics and citizenship education takes up and extends this theme. Civics used to be taught in association with history, and Macintyre wants to re-establish the connection. His report recommends that children learn in a coherent way the outline of Australia's constitutional development, from military government to colonial self-rule to the establishment of the Commonwealth and its evolution in this century.

It is an indictment of our education system that such a recommendation is necessary. For the last 40 years Australian history has had a prominent place in the curriculum, and yet Macintyre's committee reports that students who have just left school are the worst informed group on the Constitution and its history. A lot of Australian history has been taught, but in a "progressive" way – that is, there is little concern for coherence, for seeing things happening in sequence. Instead, there are projects and assignments on scattered topics which it is hoped will catch a child's interest: politics is thought a priori to be uninteresting; social history is preferred; the challenge so to present politics as to make it interesting is refused. Here as elsewhere in the curriculum, the emphasis is on developing skills rather than mastering the subject matter. Children don't need to know; they only need to know where to find information when they need it. Behold the modern school child. "What's your name, boy?", says the new teacher. "I don't know, Sir, but I know how to find out".

I welcome the Kirner and Macintyre reports because they blow the whistle on progressive education. They both assert that there are some things which children in a democracy plainly should know, among them the Constitution under which they live and how it came into being. Joan Kirner reports, "There is considerable disquiet about the shortcomings in the teaching of political and constitutional history" (p.12). That's putting the matter very politely – there is virtually no teaching of political and constitutional history. Stuart Macintyre quietly rejects much of current teaching practice when he writes: "Australian history should have its basis in narrative, so that students will gain a sense of change over time" (p.52).

I don't want to make light of the difficulties teachers face. It is hard to make our constitutional history interesting, partly because it has been a quiet, undramatic history. The real drama happened before Australia began. The key elements in our Constitution were settled in 17th century England in armed conflict between Kings and Parliament.

Until the Second World War, primary school children in Australia were introduced to these battles. Now students can leave university having studied history and politics and know nothing about them. What better way is there to get to the bedrock of our Constitution than to see Hampden refusing to pay a tax not authorised by Parliament, and to hear the Speaker of the House of Commons refusing to tell Charles I where the leaders of the Opposition were: "I have neither eyes to see nor tongue to speak in this place but as this House shall direct me"?

It would be a dull teacher indeed who couldn't make these stories interesting. The difficulty of course is that this is not Australian history. When we quite properly moved to include more Australian studies in our curriculum, we were foolish to imagine that these alone could provide an adequate understanding of our culture. We are part of European civilisation, and our politics have their origin in England and can't be understood without a knowledge of English history. The Macintyre Report does not want the study of politics and constitutional history to be limited to Australia. It recommends comparative studies of other countries' practices, now and in the past, but it gives no priority to English history. It does endorse the views of David Malouf who, in a paper to the Sydney Institute last year, called for a new appreciation in the school curriculum of Australian landscape, culture, language, history and government. Malouf wrote:

"A study of the development of our system of government, of course, would involve our students with the study of a good deal of English history: we ought not be afraid of that. It will not hurt young Australians to discover much of what is best in our system we did not make ourselves". (p.25)

I hope to see a republican Australia, but I say amen to that.

Kirner and Macintyre set themselves at odds with current orthodoxy in another way. They want to call a halt to the widespread practice of denigrating our past. In the academy over the last few decades – and the schools have caught the infection – our history has frequently been taught as mainly a catalogue of sins, of commission and omission. It has become a tale of oppression, exclusion and exploitation.

It is no discovery to find that Australian society in the past did not meet the standards we set ourselves today. The test of historical imagination is to discover what were the concerns and ideals of a past society; they will necessarily not be identical with our own. Sometimes we will find past behaviour of which we are ashamed. There are countries which have to condemn whole periods in their past, but that I believe is not our situation. Nor do Kirner and Macintyre believe this. They both think our democratic constitutional history should be a matter of pride. Their tone is positively celebratory. They could be quoting from your own articles of association. Listen to Macintyre:

"As we approach the centenary of the Commonwealth, Australians are able to look back on a remarkably successful record of democratic self-government. The public institutions created in the closing years of the last century have proved flexible and resilient. The outcomes of the democratic process enjoy popular acceptance – in contrast to the experience of most other countries, we have seldom experienced a challenge to the legitimacy of our civic order or resort to violence. The political process has operated peaceably. A broad measure of freedoms has been maintained and extended. The rule of law operates. There is a high level of tolerance and acceptance." (p. 13)

Both these reports recognise the importance of cultivating in the young a due pride in their country. It is as important in my view as cultivating individual self-esteem, a matter which we now take very seriously. A couple of generations ago teachers used to hit and humiliate students while they taught them the wisdom of the British Constitution and the glories of its Empire. Now teachers carefully nurture the self-esteem of their pupils while they tell them their country is shit. This should now stop, say Kirner and Macintyre.

The Kirner Report notes: "There is an increasing equation of Australian history with self-criticism, to the extent that it may be undermining an appropriate pride in Australian achievement". (p.2) Macintyre writes: "The Federal Fathers might indeed have worked with views and standards which are not ours. But to simply condemn them is to reinforce the pessimism about public life. The approaching centenary of federation provides an opportunity for a new appreciation of their legacy". (p.17)

Neither of these reports is looking for a sanitised or uncritical history. What they don't want is a portrait that's all warts. Certainly students should learn about the oppression and exclusion of the Aborigines, but they should also learn of the processes by which rights were restored and wrongs were redressed. They should be aware of the exclusion of women from the first colonial democracies, and then learn of the campaigns by which women secured the vote. The racism of the white Australia policy should be balanced by a knowledge of the movement which abolished it.

Beyond these strategies, Macintyre wants to inspire the young by presenting exemplary public figures from our past; Kirner wants to do the same, and does not baulk at the words heroes and heroines. It is not long ago that these were dirty words. If there were heroes, their reputation should be destroyed. Now the Macintyre Report is concerned that most young Australians could not name six great Australians in the arts, science or politics. You must be delighted. With Labor sponsorship, Sam Griffith is on the point of being promoted to the Australian pantheon.

I am not giving a full account of these Reports. I am highlighting those elements which seem to me to indicate a change in the cultural mood. There is a new readiness among those whose ideas matter to speak of pride in the Australian achievement. I am not sure what has caused this change. I think the struggles of the newly liberated nations of Europe to establish a democratic polity, and the eruptions there of ethnic and national tensions, have something to do with it. They remind us that democracy and social peace are achieved things, not natural happenings. With the massive migration program since World War II, Australia has faced a new challenge in maintaining social peace. We have people from almost every other nation on earth, people who elsewhere are sworn enemies, and yet still there is social peace. The intelligentsia not so long since used to castigate Australia as the most intolerant and racist nation on earth. Ethnic

cleansing in Yugoslavia, and burning of Turks in German hostels, have spoiled that claim. The new pride comes in part from an awareness of how well we have managed multicultural Australia.

What explains this success? The Prime Minister has given the answer, which is quoted in Macintyre's report:

"It is important to remember that the [multicultural] achievement was built on traditional democratic strengths of Australian society – and these should never be neglected. That is one reason why the Government is keen to see far greater understanding of our institutions, history and traditions." (p.23)

The Macintyre Report endorses multiculturalism, but imposes a limit on it. It declares:

"Australians seem to have a better appreciation of the benefits of diversity and a better grasp of the ethics of tolerance than of the public institutions they share. Citizenship should be the mortar that holds together the bricks of our contemporary, multicultural Australia." (summary, pp.4-5)

To make Australians better informed and committed citizens, the Macintyre Report suggests a wide range of studies and activities in the schools and in the wider community. Civics involves more than a study of the Constitution. However, the Constitution must finally be the centre-piece of any education in civics. The Macintyre group commissioned a survey which has again revealed an appalling level of ignorance about the Constitution among the Australian people.

"Only 18 per cent know something about the content of the Constitution. Only 40 per cent can name the two federal Houses of Parliament, and only 24 per cent know that Senators are elected on a Statewide basis. Sixty per cent have a total lack of knowledge about how the Constitution can be changed, despite having voted in referendums". (summary, p.6)

Since the Prime Minister is committed to a republican Constitution, many people feared that any committee he established on civics would seek to incline the people to republicanism while they were being educated on the Constitution. I see no sign of this in the report or its recommendations. Bruce Knox might have a better nose for this than I. I thought the committee showed remarkable self-restraint in not reporting that one of the biggest obstacles to a sound civic awareness in this country is the Constitution itself. It does not come remotely near to describing how our system of government actually operates; it did not do so in 1901 when the Commonwealth began; now it is so far from reality that it is positively misleading.

Part of the republican agenda is to rewrite the Constitution so that it does catch up with practice. On this matter, republicans should be able to count on the support of monarchists. In defending the Queen as our Head of State, monarchists explain that she is a mere figurehead, that she does not interfere in our government, that we are a fully independent sovereign state. Her only constitutional task is to appoint the Governor-General, and in this she is guided solely by her Australian Prime Minister. We are in effect a crowned republic.

Let's accept this and look at the Constitution. Section 1 declares that the Federal Parliament shall consist of the Queen, a Senate and a House of Representatives. That the Queen's role in Parliament is not merely decorative is made clear later – her Governor-General, acting on her behalf, can refuse assent to any bill (section 58). It is further provided that any law, even one assented to by the Governor-General, can be disallowed by the Queen herself within one year of its passage (section 59). By the letter of the Constitution, the Queen is obviously very powerful. She and her Governor-General, to whom she can issue instructions, can veto all legislation. In those two personages the Constitution also vests full executive authority (section 61). There are to be Ministers, but they come and go at the Governor-General's pleasure. There is no requirement that they possess the confidence of the House of Representatives. There is no requirement that the Governor-General must take their advice. Ministers are not even mentioned in regard to the command of the armed forces. The command is vested in the Governor-General without any limitation (section 68).

Of course the Constitution does not operate like this. These written provisions are interpreted according to the conventions of the Westminster system; some of them are explicitly over-ruled

by the Statute of Westminster Adoption Act of 1942 and the Australia Act 1986. In short, you need to be a constitutional lawyer to understand our written Constitution.

Does this matter? Yes, it does. There is a particular need for the Australian Constitution on its face to be intelligible, because the people themselves have to understand it if they are responsibly to fulfil their constitutional role of determining whether it is to be amended or not.

When republicans complain that the Constitution is such a poor guide to practice, we are derided as novices in constitutional law. No Constitution, we are told, operates as it is written. There are always conventions and understandings which will determine how a written document is interpreted. That is so. But it would be hard to find a liberal democracy whose Constitution is so far from practice as the Australian. It makes such a full obeisance to the sovereignty of the Crown that the lineaments of a liberal democracy are almost totally obscured.

We republicans plan a Constitution which will provide that the Head of State normally acts on advice of Ministers, that when advised by Ministers to sign a bill into law, the Head of State will have no discretion to refuse, and that the Head of State can choose only those Ministers who enjoy the confidence of the House of Representatives. And of course the monarchical veto will go – it is to our shame that it is still there in the written Constitution. In all this I trust we can look to monarchists for support.

Republicans of course go further. They propose to replace the British monarch with an Australian Head of State. We do this not because we are dissatisfied with the Constitution as it operates; we believe the British monarch can no longer symbolise the Australian nation. We consider that the civic commitment of the people will strengthen when they again acquire a Head of State who enjoys wide-spread support.

But I don't want to press this point. I want in conclusion to return to common ground. The Samuel Griffith Society and Stuart Macintyre's Civics Expert Group both wish to see the Australian people well informed about their Constitution. The present ignorance is a scandal. If the people are ignorant, let's encourage the reading of the Constitution. But if the people were actually to read the Constitution they would be more ignorant of our system of government than they are now. That's the dilemma facing any programme for civics education. Stuart Macintyre discreetly passed over it; I hope The Samuel Griffith Society will be prepared to confront it.