

A Reply to Brett's 'Saying No to a Voice Will be to Our Eternal Shame'

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In seeking to vindicate a 'yes' to 'the Voice' Judith Brett advances an analogy between today's push for the Voice and the push for Federation 125 years ago: both being pushes for drastic constitutional change, both provoking extensive controversy, and yet both receiving significant cross-party support. Having aligned the two pushes, Brett only requires that the Federation of 1901 to be a good thing to conclude on analogy that the Voice will also be so. But her analogy sags at several points. Rather than recommending a Yes to 'the Voice', the Federation episode would recommend a No.

Perhaps the most serious weakness in Brett's argument is that it forgets that the first round of Federation referendums - those held in 1898 - failed. NSW had legislated that a majority of enrolled voters must vote for the referendum to be valid; but a majority of electors proved too uncertain about Federation, or too indifferent, to vote one

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way or another. In the wake of this shock failure the Federation cause was frozen until the its chiefs agreed to several concessions to conciliate those NSW voters who were not diehard opponents to Federation, but who were unconvinced by it: the most important being that the Commonwealth's capital would be located not in Melbourne but within a federal territory within NSW. With this and other concessions the subsequent referendum of 1899 succeeded (even if the size of the Yes vote was enhanced by ballot fraud) All in all, closer analogical reasoning would have the Voice fail at the first referendum hurdle, and then be revised to take account of the concerns of the voters uncertain about what the Voice amounts to.

The failure of the 1898 referendum also brings out the spuriousness of the fundamental bipartisanship which Brett contends characterised the Federation episode. In seeking to show that even NSW free traders – the political arch-enemies of Barton and Deakin and - also supported Federation Brett invokes the example of Premier George Reid. But the truth is that free traders were torn in two by the Federation question, and it was a group of free trade MPs incensed at Reid's pro-Federation stance who successfully toppled Reid's premiership in 1899. (Liberal Party leaders take note.) Far from a united front, Reid coolly left free traders way behind him in his quest to be the first Prime Minister of the new Commonwealth. When he finally achieved that office, in

1904, he contentedly made do with a Victorian protectionist as his minister for Trade and Customs, and another Victorian protectionist as his treasurer.

The largest error of Brett's invocation of the Federation of 1901 is in its implicit assumption that it was all for the good. But it was not. A closer integration of the six colonies was certainly desirable. But the Federation of 1901 was premature, botched and injurious in its consequences.

The new Commonwealth grossly offended liberal principles of political justice and equality. Within its first 12 months it had legislated the effective prohibition of Asian immigration to Australia, and the deportation of Australia's Kanakas. In 1902 the Commonwealth disenfranchised Australian aboriginals. With the exception of Western Australia, no colony had had any legislative barrier to Aboriginal voting: when one was proposed in NSW in 1891, Henry Parkes repelled it as 'barbaric'. In a sad irony, some Aboriginals voted in the referendums which cleared the way for the Commonwealth which would disenfranchise them.

A further offence to justice came in the new Commonwealth's ruthless resort to compulsion. Before 1901 Australia's defence forces had been a mosaic of localism and voluntarism. This mosaic had provided the forces which fired every angry Australian shot in the Boer War, and there won three Victoria Crosses. In a radical break with this

voluntarism, the Defence Act of 1910 ordained compulsory military training for virtually all males aged 14 to 25. This 'Boy Conscription' was expensive in execution, detested by a minority, and draconian in enforcement: military police and military prisons were specifically created to enforce it, and parents were sometimes goaled for 'failing to register' their sons. And it was ineffective to its purpose; the trainees proving 'totally incompetent' and 'ignorant of the rudiments of military drill'.

The new Commonwealth also made Australia, as a whole, poorer. While it eliminated the near-trivial tariffs between the colonies, it imposed an Australia-wide tariff wall, enclosing formerly free-trade NSW. That state's 1895 tariff act had been just 1.5 pages long; the Commonwealth act of 1908 was 68 pages long. The result was to increase the price of (largely Victorian) manufactures throughout Australia, to the enduring injury to the smaller, more rural-based states (Tasmania, South Australia, and Western Australia), a truth long ago recognized by Geoffrey Blainey, and supported by recent empirical research.

Perhaps the Commonwealth's most painfully fateful injury to economic life was in industrial relations. By the Commonwealth Conciliation and Arbitration Act of 1904 it planted deep the seed of compulsory arbitration, which had disastrous effect on Australia's workplace relations. It is telling that prior to 1901 the incidence of

strikes per head in Australia was near identical to that of Canada, but by 1939-1959 there were eight times as many strikes in Australia as Canada per head.

The rush to federate in the 1890s also yielded a badly designed constitutional machine. Even after putting to one side certain palpable miscarriages of the Constitution, there remains a fundamental flaw in its structure. By crudely fastening an American Senate onto a British House of Commons, the Constitution muddied who decides if the executive stands or falls. Is it the House of Representatives? Or is the Senate – the most powerful second chamber of any parliamentary democracy in the world – also somehow involved? On this question the Constitution was deliberately silent. The constitutional crisis of 1975 was the explosion of a long-ticking time bomb planted by this studied silence. Truly, Deakin had warned in 1891, “To introduce an American Senate into a British Constitution is to destroy both”.

Finally, the Federation of 1901 acted perversely with respect to what is regarded by federationists as their ultimate validation: that the Federation of 1901 ‘made a nation’. In contemporary Federationist rhetoric Australia before 1901 was ‘without form and void’. But happily the Spirit of Federation ‘was moving across the face of the waters’, and the Federation Fathers said, ‘Let there be a nation, and there was a nation’. The anachronism of such a vision is exposed by the fact the predominating legitimation of Federation to the Federationists

themselves was the common *Britishness* of Australians. We all had crimson blood flowing through our veins! Little wonder that it was the Union Jack – and no other flag - which was raised in hundreds of Australian school yards at the opening of the inaugural Commonwealth Parliament on 9 May 1901. Little wonder that Empire Day was first officially commemorated in Australia in 1905, and in the first decade of the 20th century the two leading protagonists of Federation, Alfred Deakin and George Reid, were senior figures in the Imperial Federation League and the British Empire League respectively. The reality is that ‘Britannicist’ sentiments were so strong amongst Federationists, that 1901 only reinforced the conception of Australia as an extension of Greater Britain, and therefore only delayed Australian nationhood.

If Australia had integrated politically in piecemeal steps, instead of the single grandiose vault of 1901, it would have been fairer, wealthier, and happier society. And a more Australian one. Australians on Australia Day may well ponder that a realistic appraisal of the Federation 1901 will counsel that such a piecemeal approach be taken to the Voice.

