

John Quick

A true founding father of federation

Sir Ninian Stephen

John Quick arrived in Victoria late in 1854 as a little boy of two whose father, like many other Cornish migrants had come to Victoria in search of gold. John was born near St Ives in the far southwest of England. His parents settled in gold rush Bendigo but his father died from typhoid fever soon after arrival. His mother later married again and John, after a very few years of schooling, went to work as a ten year old in a foundry, later in a mine and later still, while in his teens, in the printing room of a Bendigo newspaper.

He graduated from newspaper print room to junior reporter on local Bendigo newspapers, moved to Melbourne and matriculated in his twenties in 1874. Then, with the aid of scholarships he graduated LLB at Melbourne University at twenty five and in 1878 was called to the Victorian bar, at the same time heading the *Age* newspaper's parliamentary staff. Quick was a studious man and a devout Methodist; a lover of literature, he planned and began a guide to Australian literature, which was completed after his death. A student of Shakespeare he was also a great admirer of John Keats' poetry. Astonishingly, in 1882 he graduated LL.D by examination at Melbourne University, a rare distinction for a practising lawyer and the following year he married Catherine Harris.

While still in his twenties he returned to Bendigo, became an active member of the Bendigo branch of the Australian natives association and won the legislative assembly

seat of Sandhurst (Bendigo) in 1880. That seat he retained for some nine years, at the same time practising law in Bendigo.

From the 1880's onwards Quick was an effective promoter of Australian federalism. He founded the Bendigo federation league in 1893 and was for some years its president.

His great contributions to Australian law and lawyers were his two major works, the over nine hundred pages of the annotated constitution, which he and Robert Garran produced in 1901, and the study of the judicial power of the commonwealth which he and Littleton Groom brought out in 1904. These two works were for many decades the outstanding legal texts on our federal system.

We have so long thought of ourselves as Australians, with over a century of nationhood behind us, that it is not easy to recapture the quite different colonial atmosphere of the Victoria in which John Quick grew up. The other Australian colonies then seemed distant indeed; only in 1883, when Quick was in his 30's, was the rail link from Melbourne to Sydney completed and it was another thirty five years before one could travel by rail all the way to Perth. Travel by road, before the days of the petrol engine, was slow and demanding and inter-colonial journeys were predominantly by ship. While the six Australian colonies shared language, loyalty and law, geography thus ensured relatively little communication between them. The colonies were initially more concerned with ensuring self-government for themselves and in pursuing conflicting policies of free trade or protection than with notions of union.

Earl Grey's early proposal in 1847, for a measure of Australia-wide cooperation in the enactment of laws for regulation of their common interests had met with indignation in Sydney and when a subsequent committee of the privy council reported in 1849 on a proposed general assembly of the colonies with quite wide legislative authority the colonial response was unfavourable and the proposal was substantially abandoned.

On into the 1850s and 1860s, during Quick's childhood, colonial proposals for some degree of federation had been explored but met with opposition in Sydney and Brisbane. Henry Parks, the then colonial secretary of New South Wales, advocated federation in 1867 at an inter-colonial conference held to consider postal communication overseas and a federal council was proposed to that end but was abandoned. Even in the 1870s a union of the colonies remained a matter for much debate but little action; the fact that Sydney was resolutely free-trade and Victoria strongly protectionist did nothing to assist the progress of federation.

The federal movement did receive support in the 1880's, first through moves for agreement on uniform customs and excise duties, which, however, foundered on the conflict between free-trading New South Wales and protectionist Victoria; then more positively when, in 1883, concern grew in the colonies about German and French colonial activity in the islands to the north of Australia and, more generally, in what some saw as a threat of Asian invasion. These concerns led to a convention in Sydney of the governments of all the Australasian colonies and Fiji and to the enactment by

some of those governments of a federal council bill. The British parliament in 1885 enacted an enabling act and the resultant federal council first met in 1886; however, Sydney's abstention ensured lack of substantial progress for the time being towards federation. Over the next fifteen years the council enacted several legislative measures but it lacked all executive power and the abstention of New South Wales substantially crippled it.

The need for something by way of joint action for adequate defence of Australia as a whole had been felt ever since the 1870's, with proposals mooted for a colonial fleet of cruisers and gunboats and by 1891 all the Australian colonies and New Zealand had legislated for this, confined however to naval defence, nothing was achieved for the meagre colonial land forces; the colonies each had their own separate military forces and inter-colonial defence cooperation was lacking.

In 1889 Sir Henry Parkes, concerned about the inadequacy of colonial defence measures and judging that the time had come for some definite action on federation, proposed a convention of the colonies to consider 'consolidating the Australias into one', following the model of the Canadian dominion. From this initiative came the Melbourne conference of 1890 at which all the colonies, including New Zealand, were represented by premiers or leading ministers. Sir Henry Parkes spoke there of how 'the crimson thread of kinship runs through us all' and urged a union of the Colonies in place of the ineffective federal council. The outcome was the calling of the first national Australasian convention, to meet in Sydney in 1891. When it met its drafting committee for three days aboard the Queensland government's paddle steamer, the SS *Lucinda*, hammered out the substance of our present constitution and federation became a real prospect.

There were by the 1890's economic factors favouring a union of the Australian colonies. By then it was felt that, especially in Victoria, federation—with its assurance of a common market within the Australian colonies—would assist in overcoming the economic depression of that decade; this was a sentiment especially strong in the towns along the river Murray. A wider view of the virtue of federation was expressed by John Quick when he wrote in 1898 that federation 'will transform a number of small states into a great nation'.

It had long been of real concern to Quick that there then existed between the colonies what he described in 1894 as 'a feeling of alienation—rapidly developing in each colony against persons coming from other colonies—regarded as strangers and intruders'. This was coupled with the acute rivalry between Sydney and Melbourne.

Yet in the mother colony, New South Wales, the quest for federation faltered; the union which federation contemplated was in that free-trading colony compared to a teetotaller contemplating keeping house with five drunkards.

It was not until mid 1893 that at a conference in Corowa, on the Murray, a plan of action emerged that led to federation. Quick was the author of that plan; as he said at the time, the aim was that the cause of federation should be achieved by the citizens of Australia and not merely advocated by politicians. As president of the Bendigo

federation league Quick was attending the 1893 Corowa conference as a delegate from the Bendigo branch of the Australian natives association. That association had, in Victoria, become a powerful advocate for federation and in towns along the Murray Australian federation leagues were also formed to urge prompt action towards federation. It was at their invitation that the Corowa conference was held, with strong representation from Victorian branches of federation leagues.

It was at the Corowa conference that John Quick made his name as one of the outstanding fathers of federation; there too he first met Robert Garran, later the co-author with Quick of their annotated constitution of the Australian commonwealth. Much later Garran described the experience of working on that volume with Quick, some fifteen years his senior, as being 'the junior partner of a steam-roller'. Quick he described as being 'like the mills of god grinding slowly and exceedingly small'.

At first the Corowa conference had followed an all too familiar form, with the passing of resolutions in favour of federation but with little by way of action. It was only towards the convention's conclusion that John Quick, in response to cries of 'can't we do something', called A. J. Peacock and others aside and, after discussion, emerged with a plan of action which proved the true initiation of positive federalism. Sir Robert Garran later described Quick's proposal as 'like the striking of flint with steel to produce this new spark of inspiration'.

Quick's plan was for the election of representatives to a convention to draft and adopt a bill to establish a federal constitution which would then be submitted 'by some process of referendum to the verdict of each colony'. This plan the Corowa conference unanimously adopted and Quick then lost no time; he drafted an Australian federal congress bill on his return to Bendigo and it became the basis for the enabling acts in each colony which ultimately resulted in federation.

The key to Quick's plan was that the people of Australia 'should be asked to choose for themselves the men to whom the task' of establishing a federal constitution should be entrusted; the cause of federation should, he said, be 'advocated by the citizens and not merely by politicians'.

In early 1895 the six colonial premiers put Quick's plan into action. Meeting in Hobart they resolved that federation should be regarded 'as the great and pressing question of Australasian politics'. Accordingly they determined that a federal constitution be framed and submitted to the electors; then, if accepted by referenda in three or more colonies, imperial legislation should be sought giving effect to federation accordingly. A draft bill was approved accordingly, the important concept of ultimate submission to the electors as a whole for their acceptance being adopted. It was passed in the south Australian and New South Wales legislatures in December 1895, in Tasmania and in Victoria by March 1896 and in slightly amended form in Western Australia in October of that year; only Queensland had failed by year's end to pass the enabling legislation.

Meanwhile in November 1896 a well attended people's federation convention was held in Bathurst which Quick attended; it received much publicity and served to inform the population at large about federation and how it might be attained.

With Queensland still standing apart, five of the six colonies in March 1897 proceeded to elect their conference delegates, Quick being the second of the ten Victorian delegates to be elected, preceded only by the premier. The momentous first meeting of the convention was subsequently held in March 1897 at which Quick was appointed to the convention's constitutional committee.

The convention, after lengthy debate in its committees, adjourned for some months to allow the colonial legislatures to consider the bill, after which the convention resumed in Sydney in September, considered the many amendments proposed by the various legislatures and again adjourned, Queensland still being absent, to sit again in Melbourne in January 1898. By March the convention had completed its task and was followed by referenda in the colonies. Quick composed and had published in a Melbourne newspaper a lengthy unofficial explanation of the constitution and partly thanks to it the constitution was approved by very large majorities in Victoria and Tasmania. It was also passed by a less substantial majority in South Australia and by a very slim majority in New South Wales, which, according to that colony's implementing legislation did not amount to acceptance of the proposal. A premiers' conference followed in 1899, which Queensland now attended, New South Wales conducted a further referendum, at which the proposed federal constitution was approved by an adequate majority and Queensland finally joined the more southerly colonies.

Final voting for federation was passed in all colonies other than Western Australia between June and September 1899, the commonwealth bill was enacted by the imperial parliament in the following year, Western Australia finally joining in the federation at the last moment and the commonwealth came into being on 1 January, 1901. It was on that date that John Quick was formally notified that he had been awarded a knighthood in recognition of his services to federation and in particular as originator of the procedure adopted for the enabling legislation for federation, which he had initiated at the Corowa conference.

On the day of the inauguration of the commonwealth Quick described the event as a great 'triumph of freedom and democracy'. At the first federal election John Quick was elected unopposed to represent Bendigo and continued in office as a federal member for a subsequent unbroken twelve years, including service as federal post master general. Subsequently and entirely appropriately, he was appointed to the bench of the federal arbitration court in 1922, a court the creation of which he had originally urged in debate on the form of the constitution. He served on it as deputy president until his retirement in 1930. He died in 1932 in Melbourne and was buried in his beloved Bendigo.

John Quick was a considerable student of aspects of the law and published a number of notable works apart from the celebrated Quick and Garran and his work on the commonwealth's judicial power. While still in his twenties he published a history of

land settlement and policy in Australia and, later, a number of other significant legal texts, often in collaboration with another. However, his great achievement was his rescue of the long sought concept of federation from seemingly endless political debate and, by recourse to popular appeal, ensuring on the first day of the new century the new federal commonwealth would become a reality.

Alfred Deakin, who knew him well, wrote of him that 'too earnest in his feelings and too sincere in his loyalty to do himself justice in debate, [he] watched over the [federation] bill in its infancy as it is had been his own child'. In fact he and his wife had no children and federation was his true child. He will long be remembered as one of that small band of true founding fathers of Australian federation.