

Senator James Drake—An Address*

James George Drake was a member of the First Parliament of the Commonwealth of Australia. A leading federation activist in Queensland, Drake was appointed to the Barton ministry as Postmaster-General in February 1901, well before writs were issued for the first federal election. He was elected as a Protectionist to the Senate for Queensland in the election of 30 March 1901.

Drake was in his late eighties when recorded by the ABC in 1938. He speaks of a brief period in his life, many years earlier. Nevertheless, his recollections are definite and precise, giving a picture of how business was conducted in the First Parliament, and touching on a number of pivotal issues. Although Drake was in the Senate for only one term, as a minister he was close to the centre of power. He says: 'If I have not been exactly a maker of history, I have at least enjoyed an inside view of the process of history-making.' Intriguingly, he is reticent about two central concerns of the early Parliament: legislation for customs and excise, and immigration.

Drake speaks slowly but without hesitation, enunciating clearly, possibly drawing on his long experience of public speaking as a barrister. His recollections of the first years of the Parliament are characterised by self-deprecating humour, and a mild, restrained, pride in his role in the foundation Parliament. Apart from fragmented recordings of W.M. Hughes, this is the only known recording of a member of the First Parliament speaking of that time.

I am going to speak to you of many years ago, and of what you might term the early days of Australian politics. Many of my listeners will remember federation in Australia and the stirring events of that time. I was then about 50 years old, having been born in 1850.¹ My memory is not as good as it was; still I have a clear recollection of parliamentary experiences. I believe I am the only surviving member of the first cabinet—and also, indeed, of the second—and there are probably only a few members of the First Australian Parliament living today.²

* This transcript was made from a tape supplied by the Fryer Library, University of Queensland, and with the permission of the ABC.

¹ For biographical details of Senator Drake, see *The Australian Dictionary of Biography*, vol. 8, and *The Biographical Dictionary of the Australian Senate*, vol. 1, 1901–1929, Carlton, Vic., Melbourne University Press, 2000.

² In 1938, Drake was certainly the only surviving member of the first and second Commonwealth ministries. There were, however, 24 other members of the First Parliament still living.

People credit me with being the first Postmaster-General of the Commonwealth, but I have some doubts on the subject. You see, the Commonwealth was inaugurated on the first day of January 1901. I did not become a minister until the fifth day of February of that year. Was there any Postmaster-General acting during January? If there was, which of my colleagues enjoyed the honour?³

The commission by which I became a member of the Executive Council was a curiosity in itself. It was in the deepest mourning. Heavy black type, black lines and sealed in the blackest wax with the private signet ring of the Governor-General, Lord Hopetoun. The date is February the fifth, 1901. The mourning was a tribute to the memory of the great Queen Victoria, recently deceased, and the commission was probably the first issued in Australia in the name of King Edward VII.

Under the federal Constitution, the post offices of all the states passed over to the Commonwealth on the first of March 1901, if my memory serves me rightly.⁴ My first work was to make provision for that event. I brought down from Queensland Robert D. Scott—who had been Deputy Postmaster-General in that state under several ministers—of whom I was necessarily reliant, who occupied the important position of Secretary to the Department.⁵

He was an unusually competent officer, one of those who make a life study of the work by which they earn their daily bread. Under his management, the public got as good a service as the reasonable charges could afford, and he was rewarded with a knighthood on his retirement many years afterwards.

My work as Postmaster-General was to get a Post and Telegraph Bill through Parliament as quickly as possible after there was a parliament to pass the bill.⁶

The Prime Minister, Edmund Barton, (afterwards Sir Edmund) faced the newly-elected Parliament with a strong team of experienced men, including some of the seasoned veterans of the states. He was a strong man himself, and a splendid party

³ The first Postmaster-General of the Commonwealth was Sir John Forrest, appointed on 1 January 1901 at the first meeting of the Federal Executive Council. Following the death on 10 January of Queenslander Sir James Dickson, the Minister for Defence, Forrest was moved to that portfolio. Drake, who was Queensland Postmaster-General at the time of federation, was appointed as Commonwealth Postmaster-General on 5 February, so maintaining Queensland's representation in the ministry.

⁴ Section 69 of the Constitution provided that, on a date to be proclaimed by the Governor-General, state departments of Posts, Telegraphs and Telephones were to be transferred to the Commonwealth. Lord Hopetoun proclaimed their transfer on 12 February, effective from 1 March 1901.

⁵ Robert Townley Scott had been head of the Queensland postal department before his appointment on 1 July 1901 as secretary of the new Commonwealth department. His appointment was criticised as biased on Drake's part. Although a successful and respected department head, he was blamed for inefficiencies in the unwieldy department by a royal commission on postal services in 1910, and retired at the end of that year. See *ADB*, vol. 9.

⁶ The Post and Telegraph Bill, which set up the administrative machinery for a national postal service, was introduced into the Senate by Drake on 5 June 1901. It was the subject of disagreement between the houses, and was returned to the Senate twice by the House of Representatives before agreement on amendments was reached, and the bill passed into law on 16 November 1901. Even so, uniform postal rates were not introduced for Australia until 1910.

manager. Like a skilful commander, he kept his strength in the House of Representatives, the quarter where he most might fear danger. There were only two senators in his cabinet: Mr R.E. O'Connor, New South Wales, barrister-at-law—a hard worker and a sound lawyer—and myself, from Queensland. My colleague, who was told off as leader for the government, enjoyed a large practice in Sydney and it happened occasionally that he was not able to get over to Melbourne, where the Parliament was at that time located. Then, I was alone.⁷

On one occasion this state of things led to an episode more amusing than serious. The Executive Council met at the time when Parliament was sitting. A bill was going through the Senate to which there was some opposition, and an amendment had actually been moved when a messenger came to me with a note scribbled on a scrap of paper from the Prime Minister: 'Governor-General wants you'. My reply was equally brief: 'Can't go, I'm alone'. Back came another memo, very emphatic: 'You must. It's a command'. I turned to a friendly senator and asked him to keep the debate going until I could get back, and then hurried over to the Executive Council chamber, which was close by in Spring Street. When I got there the chamber was as empty as Mother Hubbard's cupboard. So I took a hansom (they were very much in vogue at that date) and made for Government House, where I found the Governor, smiling and happy, and—having heard my explanation—he, like the gentleman he always was, expressed profound regret for having disturbed me, and sent me back to my job.⁸

A change in the Barton cabinet towards the end of 1903 was caused by the resignation of the Minister for Customs, a victim of overwork.⁹ In the redistribution of portfolios that followed, I was taken from the Post Office, and put in charge of the Defence Department. This was also congenial work for me.

Soon after my appointment, Major General Sir Edward Hutton, who had been chosen for the position of Inspector-General and military adviser to the government, arrived from England. He was, in my opinion, a good soldier and well fitted to fill the position for which he had been chosen, but he had a reputation for not having got on well with the civil arm. I surprised him at his hotel, The Australia, and caught him in mufti, so to speak, and had a friendly chat with him, strictly non-official. Some time after, in the course of conversation, he remarked that of all the ministers under whom he had served, I was the only one who knew anything at all of the military art. A

⁷ All ministries since federation have included members of the Senate, although there is no constitutional requirement for this. In practice, ministers are necessary in the Senate to facilitate the passage of legislation, and to respond to questions on government policy.

⁸ Much executive power in the Commonwealth is held by the 'Governor-General in Council', meaning the Governor-General acting with the advice of the Federal Executive Council. In 1901, the Executive Council consisted of nine government ministers appointed by the Governor-General on the nomination of, and including, the Prime Minister.

⁹ The Minister for Customs and Excise, Charles Cameron Kingston, resigned his portfolio on 24 July 1903, over the issue of applicability of conciliation and arbitration laws to seamen on foreign ships in Australian waters. In the ensuing ministerial shuffle, Drake was replaced as Postmaster-General by Sir Philip Fysh, while he became Minister for Defence in place of John Forrest, who went to Home Affairs.

slight emphasis on the *at all* conveyed the implication that I didn't know much, which would probably be true.¹⁰

The Defence Bill [which] passed through Parliament—through the Senate first—was drafted very much on the lines of the *Defence Act of Queensland 1884*, which was itself a model of good drafting. I got some help from the three or four other senators who had some military experience, and the attitude of the Senate generally was not unfriendly. Over the regulations there was, if I remember rightly, some difference of opinion, as there well might be, but the Act gave the government the power it sought, and under good advice, the six different—and in some cases discordant—forces of six states were welded into a miniature army, which became the foundation of a military body that afterwards gave a good account of itself.¹¹

The Judiciary Bill providing for the establishment of the High Court having been passed, the time had come for the appointment of judges. By universal agreement, the position of Chief Justice was offered to and accepted by Sir Samuel Griffith, the Chief Justice at the time of Queensland. The Prime Minister of the Commonwealth, Edmund Barton, resigned that position after having filled it worthily for nearly three years, and accepted the second judgeship, and Mr O'Connor, my only colleague in the Senate, resigned at the same time and took the third judgeship, leaving me quite alone.¹²

Alfred Deakin, as a matter of course, succeeded to the prime ministership. His right was unchallengeable, and unquestioned, but I got a surprise and a bit of a shock when he turned around to me and remarked casually, 'You will be Attorney-General.' I suggested that I was wanting in years and experience, but he would hear of no objection and was insistent. He might very well have retained the office of Attorney-General, which he had held from the start of the Commonwealth, or at least until the High Court had begun its sittings—then he, with his unrivalled eloquence, could have offered to Their Honours the congratulations of the Bar.

It was a great lift up for me, and conferred upon me the honour of offering the congratulations to the newly appointed judges, and later gave me some useful practice in constitutional law.¹³

¹⁰ Sir Edward Hutton is described in *The Australian Dictionary of Biography* (vol. 8) as the 'first organiser of the Australian Army'. During 1902–1904, he was faced with the task of transforming the six colonial military forces into one army. He met fierce opposition in his efforts to merge colonial militia forces, including from within Parliament, and was frequently at loggerheads with his minister.

¹¹ On 1 March 1901, 28 500 state servicemen were transferred into the Australian service, and state departments of naval and military defence were taken into the Commonwealth Public Service as the Department of Defence. Australia had no Defence Act, however, until the end of 1903, and even then the legislation did little more than transfer the powers of the various state defence acts to the Commonwealth. It was 1909 before a Defence Act implemented a proper defence policy.

¹² Following the resignations on 24 September of Barton and O'Connor, Drake was appointed Attorney-General, replacing Deakin, who became Prime Minister and Minister for External Affairs.

¹³ Drake successfully represented the Commonwealth as Attorney-General in the first major constitutional case heard by the High Court: *D'Emden v. Pedder*. The judges unanimously held that Commonwealth employees should not be required to pay state stamp duty in respect of salary paid to them by the Commonwealth, in accordance with the affirmation of a doctrine of mutual non-interference between state and federal operations.

Now I must say a few words about the bill that more than any other disturbed the serenity of the First Parliament. It certainly killed two governments, and we might almost say three. I mean the Conciliation and Arbitration Bill. It was introduced in the House of Representatives some time in 1903 I think, and ran a fairly smooth course until the forty-eighth clause was reached, known as the 'preference clause'. Then there were serious differences of opinion. The Opposition became too strong, and the Deakin administration had to give way to a Labor government under Chris Watson.¹⁴ They did not live long. They crashed at the same fence (the preference clause); took offence at the refusal of the Opposition to allow the bill to be re-committed to reconsider one of the amendments, and they resigned.¹⁵ That accounted for two governments killed by the preference clause. This state of things led to the formation of a composite government equal in all things, under a sort of 'gentleman's agreement', by which the new government stood pledged to put the fatal bill in the forefront of its program—forty-eighth clause and all—and to pass it before anything else was done.

George Reid, of whom I expect you have all heard, was the head of the government, and Mr Allan McLean and Sir George Turner of Victoria were his strong supporters. I accepted the position of Vice-President of the Executive Council in that government. The pledge was amply fulfilled. The bill was passed, forty-eighth clause and all, and was out of the way of that Parliament at least. But it brought no accession of strength to the government; rather it weakened it by removing an obstacle in the way of a realignment of parties on former lines. We had succeeded. We should have lived longer if we had failed. We were the third victim of the fatal bill.

But I am near to my time limit and I must make haste.

Of the defeat and resignation of the composite government, much has been written and said, and more might be. But there are matters of which, as Edmund Burke wisely remarked, 'a great deal should be said, or nothing'. I have said all I desire to say, and it is on record.¹⁶ Since that time I have been an observer, pleased to note how subsequent events have justified the work of the First Federal Parliament, and

¹⁴ The Conciliation and Arbitration Bill introduced into the House of Representatives by the Deakin government on 2 March 1904 excluded from its benefits employees of industries run by state governments. Labor moved an amendment to the 'preference clause' which had the effect of extending the provisions of the bill to these employees. On the passage of the amendment, on a vote of 38 to 29, Deakin resigned as Prime Minister, and John Christian Watson formed a Labor government.

¹⁵ The Watson government also foundered on preference clauses of the Conciliation and Arbitration Bill. It was defeated on a vote to recommit the bill to the committee of the whole, to consider an amendment which required a majority of workers in an industry to approve an award preference to unionists before the preference could be awarded by the Court. Watson took this as a vote of no confidence, and asked the Governor-General for a dissolution, which was refused. George Reid then formed a coalition government of Free Trade and Protectionist members, the so-called Reid-McLean government. Drake was Vice-President of the Executive Council in this government.

¹⁶ Drake is referring to the circumstances under which the Reid-McLean government was defeated. He considers that the removal of the Conciliation and Arbitration Bill, which passed into law on 15 December 1904, allowed a reconciliation between Labor and Deakin and his supporters. Deakin, whom Reid considered had indicated a level of support for the government, moved an amendment to the motion for the Address-in-reply to the Governor-General, which was carried on 30 June 1905, amounting to a vote of no confidence. Drake, who voted against the amendment, was not included in the ministry for the subsequent Deakin government.

vindicated its members, of whom, I expect, there are few now living. I did not offer myself for re-election.¹⁷

Today, in viewing federal politics, I see, looking over a period of years, the increasing need for unity between the states, and this need is accentuated now that defence has become so important an issue, and aviation and transport problems so vital. Good form, all.

¹⁷ In a complicated piece of political manoeuvring which backfired, Drake did not nominate for preselection at the end of his six-year term as a senator, and so ended his political career. He returned to the practice of law in Brisbane. He died on 1 August 1941, survived by 16 of his colleagues from the First Parliament.