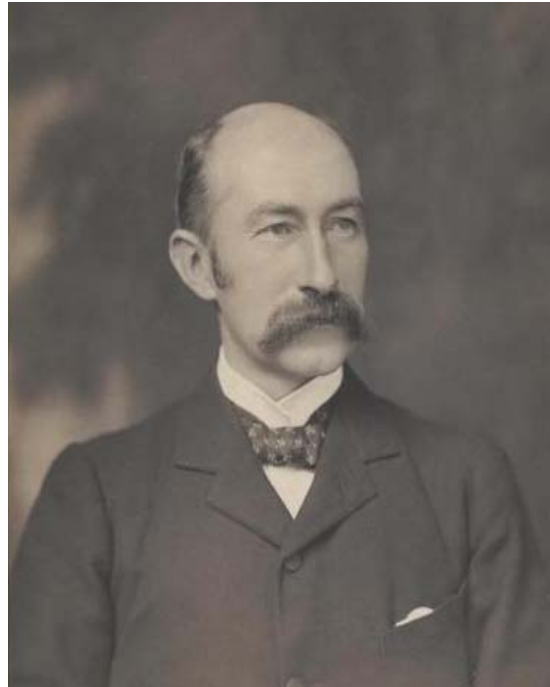


# ABLE, GIFTED, TRUSTWORTHY and DISLOYAL

The Political Fortunes of Henry Bournes Higgins, MLA for Geelong, 1894-1900



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## ABLE, GIFTED, TRUSTWORTHY and DISLOYAL

Henry Bournes Higgins<sup>1</sup>, Geelong's MLA between 1894 and 1900, voted against the federation of the Australian colonies on every possible occasion. He supported the creation of the Commonwealth of Australia but opposed specific provisions in the draft *Constitution of the Commonwealth of Australia Bill* and said that he would vote against the Bill, and against the federation of the colonies, until the draft legislation was perfected. Most civic leaders thought the legislation should be flexible and permissive because a 'perfect' document implied rigidity and an inability to respond to change or unforeseen circumstance. Not Higgins: he said that if the draft legislation was not perfect it was worthless, and at both federal referenda he urged Geelong residents to vote 'No'.

This was not the only instance of Higgins taking a contrary view on a matter of national significance and the electors of Geelong were often bewildered by the opinions of their local MLA. Several months after voting 'No' at the second federal referendum, Higgins opposed Britain's war against the Boer in South Africa and Geelong's bewilderment at his earlier views suddenly escalated to outright hostility. Higgins was accused of disloyalty to the British Empire and voters turned against him on a matter deemed to be far more important than the creation of the Commonwealth of Australia. As a consequence, he suffered a spectacular defeat and lost his seat in parliament.

In spite of this setback in Geelong, Higgins enjoyed a long public career, including fifty years in politics and the law. He was never far from controversy, and biographers and contemporaries all refer to his strong personality, his principles and his legacy. Rickard said that he was a 'disaffected radical', Palmer said that he 'cheerfully' lost his seat in the Victorian parliament on a matter of principle, Hirst called him 'a highly principled, uncompromising radical', and Crouch said that Higgins was so fussy that he would find fault with the wording of the Ten Commandments.<sup>2</sup>

This essay focuses on Higgins' relationship with the Geelong electorate and the local press in the 1890s in order to gauge his role as a local Member of Parliament, to analyze a number of recurring features in his personality, and to gain insights into the thinking of Geelong's early residents.<sup>3</sup> In the space of one decade Higgins sought a mandate from Geelong voters on eight occasions: four times whilst contesting colonial elections, three in relation to the Federal Conventions, and once when he opposed Australia's involvement in the Boer War. Throughout these campaigns, it was apparent that Higgins brooked no dissent with, or debate about, his public comments and repeatedly claimed that 'others' were conspiring against him. But in marked contrast to his colonial and national profile, there is little evidence of Higgins' role as the representative of the Geelong electorate in the 1890s<sup>4</sup> because he seldom performed any of the usual duties, such as leading delegations, laying foundation stones or securing government grants, ascribed to a local Member of Parliament in that era.<sup>5</sup>

## Failure to win the seat of Geelong at the general election (April 1892)

Henry Higgins was born in Ireland in 1851 and migrated to Victoria in 1870 where he completed a law degree at the University of Melbourne in 1876. His first connection with Geelong occurred on 19 December 1885 when he married Mary Alice, the daughter of Dr George Morrison, the principal of Geelong College. By the early 1890s Higgins was a wealthy gentleman who lived in Malvern and managed a successful legal practice in Melbourne. Higgins became interested in colonial politics and was categorized as a 'liberal' in the sense that he opposed conservative and reactionary factions in society, and supported the fledgling Labor Party although he never joined this or any other political party. Like a number of progressive liberals in the late 19<sup>th</sup> century, Higgins 'moralized in a superior tone' on a range of social issues but was unwilling to join community organizations that endeavored to bring about social change.<sup>6</sup>

Leaving aside earlier visits to Geelong to court his bride, Higgins' attempt to win the seat of Geelong in Victoria's Legislative Assembly in April 1892 was the first time that he seriously tried to woo voters. When he nominated for one of the two seats of Geelong<sup>7</sup> Higgins made it clear that he had no intention of residing in Geelong or joining local organizations or clubs, but the concept of the 'absentee Member' was common throughout Victoria and not sufficient reason to automatically reject a candidate.<sup>8</sup> In this regard Higgins' circumstances were similar to those of other 'Geelong' politicians including former premiers, Graham Berry and James Munro, as well as Charles Andrews or John Rout Hopkins, all of whom lived in Melbourne whilst representing Geelong in the colonial parliament. Each had sought a friendly electorate in order to launch and then sustain their lengthy political careers.<sup>9</sup>

Five men nominated for the two seats of Geelong. The three Liberals were Charles Andrews, William Gurr and Henry Higgins, and the Conservative candidates were John Rout Hopkins and George Martin. (The incumbents were Messrs Andrews and Hopkins.) Higgins launched his campaign with a spirited address to 1,000 residents at Geelong's Exhibition Theatre on 5 April 1892 and, over the next three weeks he delivered eight speeches in the suburbs. The *Geelong Advertiser* thought that Higgins was 'a man of talent' whilst cautioning its readers that 'he would not give up his professional and immediate personal interests in Melbourne for the electorate that he sought to represent'. Geelong residents were also aware of the conflicting editorial opinions of the *Argus* and *Age* newspapers and, as a result, Higgins was forced to respond to claims that he was a socialist, a free trader, a Fenian, an Orangemen and an atheist. Higgins repeatedly denied these claims and promised not to stoop to telling lies in order to win votes.

His campaign and advertising material indicated that he was 'a liberal with strong convictions who would carefully and energetically promote national and local interests' but this assertion raised the thorny issue of free trade and tariff protection. Geelong's wool and rope mills and its burgeoning manufacturing industry relied on import tax protection, whereas Higgins was a supporter of unrestricted free trade between the colonies and with Britain. In the midst of the election campaign Higgins was forced to concede that Geelong had special needs and, having met some influential Geelong residents, he was now 'was sufficiently pragmatic to respect the ascendancy of protectionism.'<sup>10</sup> This acknowledgment calmed factory workers in Chilwell and Geelong West, but a later comment upset the electorate when Higgins said that tariff protection was 'like the motion of the planets – something that he could not control and therefore something that he accepted'.

Factory owners, artisans and labourers were left with the clear impression that the candidate was far from committed to one of the cornerstones of Geelong's prosperity. Higgins' insensitive remark had an immediate effect on his election campaign and, at the ballot box; the voters relegated him to last place.<sup>11</sup> The Melbourne political journalist, Monty Grover, noted that Higgins was a profound thinker who relied on painstakingly prepared, set-piece speeches. However, in Grover's opinion, Higgins was not possessed of a quick mind and his impromptu remarks often caused a backlash.<sup>12</sup> It will be shown below, that this was not the only occasion when Higgins made a rash statement after a polished address or when challenged by a hostile audience.

In the traditional speech to congratulate winners and thank supporters, Higgins said that he would have won the election if he had been able to campaign for another week. He concluded by saying that he was defeated 'by the miserable spirit of localism' and this provoked calls to 'Go back to Melbourne' amid 'applause, cheers and boo-hoos'.<sup>13</sup>

### Victory at the general election (September 1894)

Two years later, in September 1894, Higgins was the first of five candidates to nominate for the seat of Geelong in the general election. A number of prominent Geelong women occupied the balcony seats to listen to his speeches and were rewarded with a pledge that he supported women voting at general elections.<sup>14</sup> Higgins said that he favored the maintenance of the current levels of tariff protection for local industries and suggested that the economy could be bolstered by a mix of personal and property taxation. He endorsed a system of compulsory arbitration to settle disputes between employees and employers and said that he would never join a government led by the current premier, James Patterson, whom he claimed had exacerbated Victoria's economic woes.

Higgins' early history of supporting free trade and opposing tariff protection was still an issue because his change of heart was accepted by the *Geelong Advertiser* but treated with skepticism by the Melbourne press. During the campaign, Higgins referred to an anonymous pamphlet circulating in Geelong and Melbourne that attacked him via 'the diabolical art of the liar who whispered untruths'. The pamphleteers highlighted his support of free trade and, in response Higgins gave a detailed explanation of what he said and the context of his earlier remarks. Higgins reiterated his pledge that he was now a committed tariff protectionist as a result of his visits to wool and rope factories in Geelong West. He and another candidate, Charles Andrews, were supported by the Geelong branch of the National Reform and Protection League which organized rallies in support of these two candidates. Higgins assured voters that he was a man of principle and willing to accept the judgment of the electorate but appealed for a large majority so that he could act with commitment and authority in the Legislative Assembly.<sup>15</sup> When nominations closed on 13 September 1894 the two sitting members (Andrews and Hopkins) faced three challengers:

Charles Andrews	Accountant	Melbourne	MLA for Geelong, Liberal
John Hopkins	Gentleman	Winchelsea	MLA for Geelong, Conservative
William Gurr	Auctioneer	Geelong	prev. unsuccessful candidate, Lib.
Henry Higgins	Barrister	Melbourne	prev. unsuccessful candidate, Lib.
Charles Sommers	Accountant	Geelong	first time candidate, Conservative

In the final week of the campaign, the candidates addressed large crowds in temperance halls, town halls, outside factories, in hotels and on vacant land near hotels. Several outdoor rallies

commenced at 8pm so there must have been considerable interest in the campaign given that audiences, often numbering from 200-500, then had to make their way home in the dark. Candidates usually received orderly hearings but one of the sitting Members, John Rout Hopkins, attracted considerable hostility and abuse because of recent press reports of his ability to fall asleep during rowdy debates in the parliament. Protesters disrupted one of his rallies in the genteel borough of Newtown and when Hopkins sought to escape via a side door he was pelted with flour, mud and sticks. The *Geelong Advertiser*, no fan of Hopkins, said it was undignified treatment for a civic leader but did not treat the incident too seriously.<sup>16</sup> The debut candidate, Charles Sommers was described as too young and inexperienced to be taken seriously but he was the son of a generous hotelier and former mayor, and was expected to attract support from sections of the community.<sup>17</sup>

The *Geelong Advertiser* claimed that the three election issues were the retention of a strong tariff barrier to safeguard Geelong industry, a fairer taxation system, and sound management of the economy. The latter was an obvious concern given the role played by Geelong's two previous MLA's and premiers (Sir Graham Berry and James Munro) in mis-managing the economy during the land-boom era.<sup>18</sup> In addition to his rallies in halls and at the mills, Higgins spoke to 400 men at the wharf and was repeatedly challenged to affirm his support for the tariff protection of local industries. He replied that he was in favor of retaining the current levels of tariff protection and, if elected to parliament, he would sit with the protectionists regardless of whether they were in government or in opposition. The editor of the *Geelong Advertiser* almost swooned and congratulated the candidate on admitting so forthrightly that tariffs were vital to Geelong's wellbeing. Higgins concluded every speech by saying that he was a staunch opponent of the premier and this too drew loud applause from crowds and even more support from the *Geelong Advertiser*. The editor offered an assessment of the suitability of some of the candidates:

John Rout Hopkins, the conservative MLA has done nothing to distinguish himself except slavishly support the discredited Patterson ministry. He is seldom in the parliament, seldom speaks in anything other than monosyllables and is regarded more with amusement than interest by other members of parliament. Andrews is fond of napping inside and outside the parliament but even half asleep he is better than Hopkins. Andrews is a man of ability who has failed to use it, to the detriment of the parliament and the people of Geelong...We support Higgins: his candidacy would be a compliment to any constituency in Victoria. He is a sound barrister and a democrat who has forsworn his earlier free trade ideas...By declaring himself a protectionist, Higgins has successfully answered the question about where he will sit in the parliament.<sup>19</sup>

The *Geelong Advertiser* also said that:

If Higgins is elected, Geelong may congratulate itself on being served by one of the ablest men to be elected to the Victorian parliament and, in an election campaign [already described as] an epoch in our history, Higgins represents 'safe hands.'<sup>20</sup>

Higgins also received support from an anonymous correspondent who said that 'as a lawyer, Higgins was necessarily conversant with evil and would be able to steer clear of it'. The election took place on 20 September 1894 and voting for the two seats for Geelong resulted in Higgins

topping the poll with 1,768 votes. He was followed by Gurr with 1,743 votes, Andrews with 1,453 votes, Hopkins with 693 votes and, lastly, Sommers with only 499 votes.

In the 'first past the post' voting system, the two winners were the protectionists, Messrs Higgins and Gurr, and the losers were the 'ministerialists'; Hopkins and Sommers. Local rejection of the conservative Patterson ministry was repeated throughout the colony and it was anticipated that the new Turner government would hold a massive 78:27 majority in the Legislative Assembly.

Higgins' victory was declared a 'great gain for the Geelong electorate'. When thanking his supporters, he called on his parliamentary colleagues to 'promote the purity of the election process' and said that if the election campaign had been fair he would have secured more votes, but offered no explanation for this remark. Finally he promised to serve the people of Geelong as long as he retained their confidence.<sup>21</sup>

### Victorian delegate to the Federal Conventions (March 1897)

As one of the precursors to the federation of the Australian colonies, the six colonies agreed to each send ten delegates to the Federal Convention: a series of meetings to draft the constitution of the Commonwealth of Australia. Each colony was confident that its representatives would be non-political visionaries and skilled law makers because their primary task was nothing less than planning the future of Australia. However the selection of Victoria's delegates was politicized and became another tussle between the protectionists (supported by the *Age* newspaper) and the conservative free traders (supported by the *Argus*). Both groups insisted that their nominees were best equipped to lay the legal, political and economic groundwork for the Commonwealth of Australia. Henry Higgins, MHR Geelong, was one of the first to seek endorsement as a Victorian delegate.

By February 1897 twenty-seven delegates had nominated for the ten Victorian vacancies and most of the contenders came to Geelong to address voters. Local audiences had the pleasure of listening to some of the leading orators of the decade, including Alfred Deakin, Alexander Peacock, Duncan Gillies, Sir Frederick Sargood, Hume Cook, Sir John McIntyre and Geelong's old veteran, J.H. Connor, MLC. There were no debates because speakers addressed partisan crowds and invariably won the support of their audience. Alfred Deakin's speech focused on the dry, practical aspects of drafting the legislation and yet his 'native gift of oratory' roused the enthusiasm of his audience. Higgins delivered an 'able and instructive address' to a large crowd in Geelong on 4 February 1897 and newspaper reports indicate that he was well received in Melbourne, Ararat, Stawell, Hamilton and Ballarat.

All the candidates included Ballarat on their itinerary and Higgins made a favorable impression although this support was tempered by a concern that he was a comparatively young man to politics. Sir Graham Berry and Alfred Deakin were the stand-out performers when they spoke to an audience of 2,000 on 2 March 1897. The Ballarat *Courier* tried to remain aloof from the protectionist and free trade divide and chose instead to support 'progressives', including Berry, Deakin, Higgins, Trenwith and Turner, and oppose 'the old conservative failures' such as Gillies, Smith and McIntyre. The *Courier* argued in favor of balanced representation; meaning an equal number of delegates representing urban and rural Victoria, and noted that H.B. Higgins was a resident of Malvern. His connection to Geelong was not mentioned.<sup>22</sup> The *Courier* published two

lists and Higgins and Deakin appeared on both. The first list was of 'the most skilful candidates' and the second list was of 'the most trustworthy candidates in the eyes of the electorate'. The *Geelong Advertiser*, motivated by similar lists in the Melbourne and Bendigo press, named its preferred candidates and included Higgins because of his reputation as an eminent jurist but omitted Alfred Deakin.<sup>23</sup>

Higgins made a simple appeal to all Geelong electors to cast their votes on polling day:

Please do not misunderstand me. I am not making this appeal for selfish reasons. All classes of society want to see these colonies federated and nothing will forward the cause so much as a huge turnout at the poll. I hope Geelong leads the way in Victoria with the biggest number of votes recorded. Not every generation has a chance to form a nation and this opportunity may never come again.<sup>24</sup>

In spite of this plea, only 50% of electors bothered to vote<sup>25</sup> but those Geelongites who did so were of a similar mind to their Victorian counterparts. The clear winners included Sir George Turner, Alfred Deakin, Alexander Peacock, John Quick and, surprisingly, Sir Graham Berry, now an elder statesman but previously a political firebrand. Henry Higgins came third in Geelong, Newtown and Geelong West, sixth in the Barwon electorate and polled well in Ballarat and Bendigo and became the eighth of ten Victorian delegates to be sent to the Federal Convention. The *Geelong Advertiser* was pleased with the overall outcome but failed to mention the success of its local Member of Parliament.

The Federal Convention began in Adelaide on 22 March 1897 and went into recess on 24 April 1897. Initially the *Geelong Advertiser* provided detailed coverage of the proceedings but after two weeks it simply printed brief summaries. Comments by Henry Higgins were reported on only two occasions: when he opposed the allocation of an equal number of votes to each state in the Senate and when he made some legal remarks about the right of the states to appeal to the Privy Council in Britain. On the first matter Higgins was supported by another Victorian delegate, Sir Graham Berry, but the smaller colonies of WA, SA and Tasmania invariably voted as a bloc, or threatened to go home, and defeated most attempts to limit their power. The editor of the *Geelong Advertiser* was impressed by the quality of the debate at the Convention but identified 'a clear parting of the ways' between NSW and Victoria on trade matters and between a combined NSW and Victoria bloc and the other colonies on other matters. At the conclusion of the first Federal Convention, Higgins made no attempt to provide feedback to his electorate.

Less space was allocated to the daily activities of the second Federal Convention in Sydney in September 1897. Alfred Deakin's comment that every step forward highlighted more obstacles to be overcome proved correct but overall there was a strong sense of agreement amongst the delegates. Higgins was now identified as one of the major obstacles to the completion of the task of drafting a constitution because he disagreed with the majority of delegates on numerous issues and on specific points of law regarding equal representation of the states in the Senate and the process of managing a double dissolution of parliament.<sup>26</sup> The *Geelong Times* was furious at Higgins' intransigence and its editor claimed that Higgins had wasted two days of the Convention's time by refusing to accept the view of the majority of delegates.<sup>27</sup> The second Convention ended on Friday, 25 September 1897 without a clear resolution but there was little time for contemplation because the Victorian delegates had to rush home and contest a general election within a fortnight.

## Higgins retains his seat at the general election (October 1897)

Higgins returned to Geelong in order to meet his electoral committee and plan his speaking engagements during the election campaign. The premier's confident slogan was 'Peace and Progress' but the *Geelong Advertiser* seemed less than enthusiastic about the caliber of the local candidates vying for a seat in parliament.<sup>28</sup> The editor predicted that there would be:

no dearth of candidates in Geelong. Gentlemen who have retired on their means, and gentlemen who have retired with no means at all but hope to acquire them by way of a seat in parliament, are equally anxious to get on good terms with the electors. They will generally pledge themselves to anything to placate the majority of voters.<sup>29</sup>

After the usual posturing, four men nominated for the two seats of Geelong:

Jonas Blakiston	shipping agent	Geelong	Opposition candidate
Walter Timon Coldham	barrister	Melbourne	Ministerialist cand.
William Gurr	auctioneer	Geelong	MLA, Ministerialist cand.
Henry Higgins	barrister	Malvern	MLA, Ministerialist cand.

Higgins and his rivals spoke to huge crowds. On one occasion, Coldham spoke to 1,700 people at the Exhibition Theatre, and crowds of 700 to 900 listened to the other candidates. One debate concerned the teaching of religious instruction in state school, and Coldham appears to have nominated for the seat in Geelong in order to promote this cause. The premier of Victoria said that he had seen some of the text books (based on Irish Scripture Lesson books) and was shocked by their contents. He said that he was 'not even prepared to discuss their contents in front of a mixed sex audience'.<sup>30</sup> Higgins supported ministers of religion teaching Bible studies in schools but did not think that school teachers should be permitted or forced to do so.

William Gurr, MLA, was endorsed by the United Labor Party and made much of the fact that he was one of only fourteen candidates throughout Victoria to receive such endorsement. Blakiston said that he was a 'straight out liberal protectionist' but was forced to ward off criticism that he would be an ineffectual politician because he had recently failed to retain his seat on the town council.

Henry Higgins could do no wrong in the eyes of the *Geelong Advertiser*. The newspaper printed large quantities of supportive material and offered no criticism of its favored candidate. The editor said that Higgins had a 'statesman-like grasp of most public questions' and the courage to speak his mind on all issues. The editor also endorsed Higgins' claim that his parliamentary record over the past three years was such that 'he had nothing to apologize for, nothing to retract and nothing to be ashamed of'. When addressing the electorate, Higgins said that the more he was attacked by sections of the Melbourne press (meaning the *Argus*), the more he was convinced that he was on the right path, a comment that invariably met with applause from his parochial audience.

Higgins' contribution to the debates at the Federal Convention was endorsed by the *Geelong Advertiser* even though, from an earlier reading of that newspaper, residents could not have formed the impression that he had contributed much of substance to the debate. In spite of limited reporting in the past, the editor now said that Higgins had been a 'powerhouse' at the Federal



Convention and that he was 'one of the first five of all delegates in terms of ability and influence', thus putting him in the same class as Deakin and Barton. The Melbourne *Argus* said that Higgins had a reputation as a 'stumbling block' at the Federal Convention but the *Geelong Advertiser* took a more lenient view, saying that his concerns about the deficiencies in the draft Constitution were valid and had been given due consideration by the delegates.

A letter to the *Geelong Advertiser* from 'Federalist' praised Higgins as an 'honest man, an accomplished thinker and a scholar' whose re-election would bring great prestige to Geelong. Another correspondent, 'Geelong West Elector' claimed that Higgins was a 'gifted and trustworthy politician'.<sup>31</sup> But the *Geelong Times* took a different view when it argued that Higgins had 'lost touch with his electorate because of his Radical - almost Socialistic - views', because his religious intolerance was 'almost too painful to listen to', and because he supported the concept of 'one man one vote' unless it contradicted his viewpoint. The editor called Higgins 'a notorious trimmer'; a derogatory term that implied that Higgins would only accept the will of the people if and when it coincided with his opinion.<sup>32</sup>

On 14 October 1897, the day of the general election, the *Geelong Advertiser* said Higgins had been a tower of strength in the colonial parliament and that 'no reasonable man can deny that Higgins has well earned the continued confidence of this constituency...and so he should head the poll'. The winners were Messrs Gurr with 2,364 votes and Higgins with 2,301 votes. The losers were Coldham who won 1,127 and Blakiston who came last with 677 votes

At the declaration of the poll Higgins enjoyed deafening applause from his loyal supporters. He said that he would return to the parliament more determined to fight for the working classes and the electoral support that he enjoyed in Geelong would strengthen his hand in the federal arena, especially when drafting the Constitution to ensure that it would benefit all Australians. (Cheers).

In spite of his recent victory in Geelong, Higgins' election as a delegate to the Federal Convention marked a turning point in his career as the MLA for Geelong. Between 1894 and 1897 Higgins played a minor but positive role in supporting the interests of his electorate but this involvement fell away after 1898. For example, he spoke in favour of a half-day holiday for shop workers and artisans, he attended several Chamber of Commerce functions and he led deputations of local businessmen who wanted the government to rezone land. Higgins delivered one public address on his recent activity in the parliament and reminded his audience that he had argued in favour of several amendments to the Local Government (Geelong) Bill. But this was a miniscule contribution when compared to the efforts of his predecessors who held the seat of Geelong in the 1880s<sup>33</sup>, and diminished even further following his election as a delegate to the Federal Convention. His involvement in drafting the Australian constitution became all-consuming and may explain his loss of interest in electoral matters and his forfeiture of the goodwill of the community over the next three years.

#### The mood of the meeting: 3<sup>rd</sup> Federal Convention and ANA Conference (Jan – March 1898)

By 1898 most Australians 'wanted the job done' and for the Commonwealth of Australia to become a reality, but the delegates continued to argue about the legislative detail and how much compromise was necessary to achieve an agreed outcome.

The third Federal Convention took place in Melbourne between 19 January and 16 March 1898, by which time the essence of the debate had come down to a single question: should the *Constitution of the Commonwealth of Australia Bill*, as currently drafted, be sent to Britain for approval by the British parliament and assent by Her Majesty Queen Victoria? Or should it remain before the Federal Convention until all issues were resolved. The premier of Victoria had already indicated that he 'was not altogether satisfied with the draft Constitution' but recommended that the people of Victoria accept it. Higgins took the opposite view when he said that, 'rightly or wrongly I came to the conclusion that further delay would bring Australia a better constitution [and] I told Sir George Turner and Alfred Deakin that I could not support the Constitution as framed'.<sup>34</sup>

The annual conference of the Australian Natives Association took place at Bendigo on 15 March 1898 and provided another opportunity for Higgins to be reminded of the mood of the community at large. R.F. Toutcher, the Victorian president, told his audience that the ANA was one of the early champions of federation and said that 'whilst no one thinks the Commonwealth Bill is perfection, its advantages far outweigh its disadvantages' He noted that the matter would go before the electorate in a few weeks and that voters 'had the power by a stroke of a pencil, to strangle life out of a nation at the time of its very first breath'. At the banquet to close the conference, Mr Isaacs, Victoria's attorney general and a delegate to the Federal Convention,<sup>35</sup> said that federation was inevitable and concluded his speech with a warning that 'he would not hesitate to pluck the rose simply because it was surrounded by a few thorns'. When asked to explain what he meant, he managed to confuse everyone and upset the momentum of the past few days until Alfred Deakin rose and delivered one of the greatest speeches in Australian history.<sup>36</sup> Henry Higgins was a conference guest (but not a member of the ANA) and was seated at the head table. The *Geelong Advertiser* made no reference to his participation in the debates or the reaction of ANA members to a delegate who once 'vigorously advocated' federation<sup>37</sup> but now opposed one of the cornerstones of the ANA - the adoption of the *Constitution of the Commonwealth of Australia Bill*.

### Higgins voted 'No' at the first and second Referenda (1899)

As noted above, the purpose of the constitutional referenda was to give Australians the opportunity to support or reject sending the draft *Constitution of the Commonwealth of Australia Bill* to Britain for ratification. The draft Bill was the result of years of work and the *Geelong Advertiser* was not alone in declaring referendum polling day (3 June 1898) a 'turning point in Australian history'. However Higgins continued to oppose the resolution because, he claimed, the draft legislation was imperfect and ought to be rejected. When addressing public meetings, it was apparent that his views were often confusing and always unpopular. On one occasion he spoke to an audience of 600 and received 'chilling silence' but was not dissuaded. Alfred Deakin noted that Higgins had become famous for his 'courage in fighting against desperate odds'.<sup>38</sup> Richard Crouch, then an aspiring politician for the neighboring seat of Barwon, said that Higgins had 'a finicky mind that would probably find fault with the Ten Commandments, the Magna Carta and the US Bill of Rights'.<sup>39</sup>

The editor of the *Geelong Times* was annoyed that Higgins, in his capacity as a Victorian delegate at the Federal Conventions, had 'deserted his regiment' and the mayors of Geelong, Geelong West and Newtown placed large advertisements in the press urging voters to mark 'Yes' on their ballot papers.<sup>40</sup> The *Melbourne Age* argued that if the typical Australian failed to trust the judgment and advice of these eminent delegates, then it would reflect badly on everyone and, the 'opinion of the

civilized world' would be lessened and 'those who hate the British Empire would be gladdened to see this attempt at federation fail'.<sup>41</sup> The *Geelong Advertiser* portrayed Higgins as a party spoiler and a nuisance, and it was apparent that the love affair between Higgins and the *Geelong Advertiser* had waned. Reuben Quarrill, the editor since 1874 and a passionate advocate of federation for at least as long, argued that federation was 'the people's cause' and urged non-political bodies such as the ANA, the Chamber of Commerce and local municipalities to throw their weight behind the 'Yes' vote at the referendum. Quarrill said that whenever the ANA 'found an enemy of the cause, it shall be their duty to give him battle'.<sup>42</sup>

Higgins spoke to 800 people at the Geelong Mechanics' Institute and told his audience that the electors had given him a great privilege and a great responsibility when selecting him to attend the Federal Conventions and for this reason, he felt compelled to tell his audience of his misgivings. Higgins said that voters should not accept the draft Constitution simply because it was endorsed by the ablest and best men in Australia because, he said, the colonial experience and rivalries of these delegates inhibited rather than advanced the federal cause. Higgins claimed that the delegates had achieved their goal by compromise, with the result that parts of the draft Constitution were 'crude and incoherent'. He was worried that, once adopted, the Constitution Act could never be amended 'no matter how much it was wanted or how urgently it is required' and that 'this fact was absolutely and unreservedly true'.<sup>43</sup> He noted that the Constitution of the United States of America had only been amended when the changes were minor and inconsequential, or as a result of revolution and war.<sup>44</sup>

Recent commentators have argued that Higgins' speech in Geelong was a watershed because it demonstrated the power of his reasoning, the strength of his convictions and the lucidity of his public speaking. For example, L.F. Crisp in *Federation Fathers* argues that Higgins:

was happy to settle for Federation *provided* its Constitution was sufficiently flexible...and readily and easily take development or remoulding to enable successive generations...to cope with national progress. <sup>45</sup>

But this was not Higgins' view or the mood of the Geelong electorate in 1898. The editor of the *Geelong Advertiser* criticized Higgins' negative views and inflexible attitude and noted that Clause 127 of the *Constitution of the Commonwealth of Australia Bill* made reference to the multiple ways in which the Constitution could be amended. Having previously noted that Higgins was unwilling to accept the views of others, the editor now demanded to know:

What would Mr Higgins have had? A gathering of mediocrities with one able man to lead in the person of say, the honorable member for Geelong, or an assemblage of Higgins.<sup>46</sup>

The results of the first referenda on 2 June 1898 indicated that 82% of Geelong voters who bothered to enter a polling booth favored sending the draft Bill to Britain.<sup>47</sup> Nationally 219,000 people voted 'Yes' and 108,000 voted 'No', but NSW rejected the draft Constitution and so the referenda failed. The *Geelong Times* was appalled by the result and said that, after forty years of hard work, the 'good ship 'Federation' was on the rocks'. The editor thought that the only consolation was that Geelong voters had ignored Higgins' urgings.<sup>48</sup>

A year later, on 27 July 1899, the electorate returned to the polling booths to determine the fate of the same question. The *Geelong Advertiser* remained perplexed by the behavior of Henry Higgins, MLA for Geelong, who defied the mood of his electorate and continued to promote the 'No' campaign. The editor conceded that:

No one can say that Higgins lacks the courage of his convictions because, in spite of the overwhelming support for federation in June 1898, he still comes before us with vaticinations of coming woes.<sup>49</sup>

Higgins insisted that he was a federalist but wanted to delay the process in order to improve it, so, when he spoke to a public meeting on referendum eve, he urged his audience to vote 'No'. Higgins said that he opposed the draft Bill because of the risks associated with ceding of too much power to the states via the Senate, and the concomitant risk that one state could exercise undue pressure on the House of Representatives. Higgins was concerned that, one day in the future, the Senate may obstruct the lower House and the will of the people. The *Geelong Advertiser* conceded that such an event could occur but did not regard this as justification to reject federation. 'We believe that Australians have too much integrity and self righting instinct to be won over by Higgins' concerns'. (Higgins remained a lifelong critic of the equal rights of the states in the Senate and it is interesting to note that his 'bitter opposition' was mentioned in his obituary thirty years later.<sup>50</sup>)

By now the editor of the *Geelong Advertiser* was angry with the local MLA who previously could do no wrong:

No comment by Higgins...is worth a brass monkey, it is simply an emanation from the brain of a man lost in his own conceit; of a man who worships 'Higgins' and believes that 'Higgins' is superior to federal conferences, to federal resolutions, premiers' conclusions and even the majority of all Australia itself.<sup>51</sup>

Higgins and 118 other Geelong residents voted 'No' and were easily defeated by the 3,142 local residents who voted 'Yes'.<sup>52</sup> Victoria's 'Yes' vote increased to 94% and NSW's increased to 56%. The majority of Australians in the majority of colonies had finally voted to send the draft Constitution to Britain for approval. (Western Australians did not vote until July 1900.) William Gurr, Geelong's other MHR, had been repeatedly overshadowed by his parliamentary colleague and relished the opportunity to announce that the 'hearts of the Australian people beat in unison' and that Higgins and 'other faddists who sought notoriety by opposing all that other men believe in' had been thoroughly discredited.<sup>53</sup>

### Boer War and accusations of disloyalty (October 1899)

Three months later something far more important than the federation of the Australian colonies grabbed the attention of the electorate, and once again Geelong's radical MLA was a provocateur on the minority side. This time the debate concerned the dispatch of Victorian troops to fight in South Africa, and Higgins' views, which had no bearing on the debate or the war, were to cause him considerable strife a few months later.

The threat of war between the British and the Boer had been simmering for months and the Victorian government, and the population at large, was keen to send troops to fight alongside the

British army should there be an outbreak of war.<sup>54</sup> The colonial press gave readers an extensive coverage of troop movements, diplomatic intrigues and likely tactics, and supplemented its daily reports with maps and clamorous headlines. On 10 October 1899 the premier of Victoria, Sir George Turner, moved a motion of loyalty to the Queen, and a commitment 'to provide the means for the sending of soldiers to serve with the Imperial Army in order to fight the Boer'. The premier was far from enthusiastic and said that, from a Victorian perspective, 'it was difficult to see the merits of the military action by Great Britain but we accept Britain's assurances that it is acting in a just and right manner'. In spite of these reservations, Turner was confident that by sending a contingent to South Africa, Victoria would provide a 'clear illustration to the world of Australia's loyalty to the motherland [even though] ours would be token involvement'. The *Geelong Advertiser* agreed and said:

It is a fact that the Boer are behaving disloyally and everything that they do makes Great Britain more liable to attack by other powers. This could affect Australia's national existence so we must support Great Britain. We do many things to display our loyalty, such as celebrating the Queen's Jubilee and enjoying national holidays so we must send troops with the same lack of doubt. Britain has protected us for decades and we should grudge neither men nor money in support of the flag. Britain will long remember that we fought by her side in South Africa.<sup>55</sup>

The motion was carried by 67 to 13 votes in the Victorian Legislative Assembly and passed unanimously in the Legislative Council the following day. Opposition came from a Labor faction and several individuals who said that the Boer were not worth fighting, that our contingent of 250 troops would make us a laughing stock, that we should only send troops to Britain to defend English soil, and that 'we should not be fighting other God-fearing people'. William Gurr, MLA for Geelong, supported the motion and Sir John McIntyre, MLA, caused a 'flare up' when he said that 'those who opposed the motion were disloyal at heart'. Undaunted, Higgins voted against the motion on the grounds that a war against the Boer was 'unnecessary, unjust and unscrupulous'.<sup>56</sup>

#### No-confidence in the Turner / McLean governments (February 1900)

Two months later, on 5 December 1899, Sir George Turner, the premier of Victoria lost office on a vote of no-confidence engineered by Allan McLean, MLA, but moved by Henry Higgins, MLA, who crossed the floor of parliament and voted against his leader. However, within two months of assuming office, McLean disappointed the Labor faction and Higgins surprised everyone when he moved a vote of no-confidence in the new premier. (It was rumored that Higgins was angry that he not been appointed to the position of Attorney General in the McLean ministry, and hence his change of loyalties.) Higgins claimed that he had the support of the majority in the parliament but only sixteen MLAs supported him and McLean survived the challenge. The *Geelong Advertiser* was baffled by Higgins' motives and claimed that his public display of a lack of confidence in two premiers in two months was one of the more 'puerile and impotent exhibitions' ever witnessed in the parliament and a 'sham from first to last'. The editor reminded readers that their local Member had a reputation for dissent and had *even* opposed federation.<sup>57</sup>

## Higgins loses the general election because of his disloyalty (November 1900)

The Colony of Victoria's last general election before federation and statehood took place on 1 November 1900 and, in contrast to previous elections, Higgins was the last to nominate for the seat of Geelong. The two local candidates were William Gurr, MLA, a real estate agent from Geelong, and Edward Brownbill, a Geelong jeweler. The other three challengers, Messrs Andrews, Higgins and Leon, were barristers from Melbourne.

In spite of his serious concerns about the *Commonwealth of Australia Bill*, Higgins wanted to be a member of the federal parliament. The legislation that he voted against received Royal Assent in September 1900 and the first federal election was scheduled to take place in March 1901. A number of Victoria's politicians indicated that they intended to enter the federal parliament and many thought that their prospects of winning a seat in the federal parliament would be enhanced by staying in the Victorian parliament and using their status as a springboard for federal endorsement. Voters seemed confused as to whether an individual could be both a state and a federal politician. (For example, Deakin said that, regardless of the law, he would not seek to hold a state and federal seat, Sir George Turner made no secret that he wanted to become premier of Victoria in November 1900 and then resign that position to enter the federal parliament three months later. Jonas Levien, MLA, Barwon, and candidate for the federal seat of Corio said that it was his duty to stand for both state and federal parliament). In the weeks before the first federal election, the local press published articles in order to end the confusion.<sup>58</sup>

The other feature of the Victorian election in 1900 was the lack of policy or philosophical disputes between the parties and factions. Earlier arguments about financial management had dissipated and most commentators said that this campaign would focus on the personal merit, integrity and suitability of the candidates themselves.

Higgins opened his election campaign on 19 October 1900 at the Geelong Mechanics' Institute. He shared the stage with Messrs Gurr and Leon but neither spoke that evening. Higgins began by thanking the electorate for sending him to the Federal Conventions where, he believed, he had made a positive contribution even though he had not been entirely satisfied with the outcome. Higgins said that he had been asked to nominate for three seats in the federal parliament, including the seat of Corio, and that was why he was so slow in re-nominating for Geelong for a fourth term. Higgins then spoke at length in favour of extending the female franchise and a range of other matters. He spoke for ninety minutes and received a positive reception from the crowd and then 'sat down amidst a well deserved round of applause'. An eyewitness at the meeting said that Higgins answered numerous questions from the crowd before a well-known Geelong militiaman asked Higgins why he opposed dispatching troops to fight the Boer in South Africa. The question was widely anticipated and it was assumed that Higgins would deflect it but he decided to respond aggressively – 'a most rare slip of character' – and reiterated his earlier view that the war was 'unnecessary and unjust'.

His obvious anger at the question and his terse reply ignited the mood of the meeting and 'A.C.C'., writing in the Geelong *Federal Record*, likened Higgins to that of a 'strong man suddenly taken by a flood'. Scuffles brought out and the police separated various groups as a large part of the crowd abused Higgins and others sought to defend him. A semblance of calm was imposed on the unruly meeting with the lusty, if impromptu, singing of 'God Save the Queen'.<sup>59</sup> This in itself was seen as

a test of Higgins' loyalty because he did not stand to sing the National Anthem until the second line, by which time men in the crowd were shouting 'Stand up, Higgins, Stand up'. Singing the National Anthem was also recognized as a sign that a meeting had closed and its completion prompted the audience to exit the building but then, showing equal measures of disrespect and aggression, a section of the crowd sang 'Soldiers of the Queen'.<sup>60</sup> Higgins and his entourage were 'trapped' on stage and in the space of five minutes the candidate, whose 'cussedness and perversity' had always been attributed in part to his 'Irishness',<sup>61</sup> probably realized that he had lost the goodwill of the electorate.<sup>62</sup>

Next day the *Geelong Advertiser* praised Higgins for the quality and breadth of his address and his adherence to his principles. The editor sympathized with Higgins on the grounds that his campaign speech had been thrown into chaos because of the 'coldly cruel intent' of the provocateur who sought his comments on the Boer war. But the editor had deep reservations about Higgins' behavior because the local Member of Parliament had 'inconsistently joined in the singing of the patriotic hymns' and because of his views on the war itself.

Many people now believe that Britain was forced into the war and Higgins cannot expect a loyal and patriotic constituency like Geelong to support his views. [Furthermore] he should read up on the treasonable actions of the Boer and, before he addresses another public meeting in Geelong, tell the voters of his changed views on the subject.<sup>63</sup>

The *Geelong Advertiser* questioned Higgins' claim that his views on Victoria's involvement in the Boer War were personal and not relevant to his political ability or duties. The *Geelong Advertiser* also argued that Higgins must recognise that there was ample evidence to show that the war was justified. By now the editor had worked himself into a rage when he claimed that Higgins had never recanted for other mistakes and that his views were not representative of those of the Geelong community. The editor concluded that Higgins must be classed with the 'Little Englanders, the enemies of the country'.<sup>64</sup>

The rival *Geelong Times* also reported the uproar at the Mechanics' Institute but placed greater emphasis on Higgins' claim that he was entitled to express his opinion on any subject and not be harassed by noisy interjectors.<sup>65</sup>

Higgins spoke to another crowd at South Geelong where the response was polite and cordial but the following day three people attacked Higgins via letters to the editor of the *Geelong Advertiser*. 'Deeply Concerned' said that Higgins was egotistical with 'no respect for his constituents' and had 'crossed the bounds when he traduced the colony's reputation'. He also claimed that 'over the past three years Higgins' actions had diverted all the government's sympathies away from the electorate of Geelong and he would never become a minister or get into cabinet...Higgins' very ability has made him a dangerous man politically'. 'An Elector' agreed that every man had a right to his own views but asked: when is a political candidate speaking on his own and when is he speaking on behalf of his electorate [because] Higgins has done his level best to prevent the unity of Australia, he opposed reference to God in the Constitution, and has done various other things that are contrary to public opinion'.<sup>66</sup>

Higgins wrote a letter of explanation in which he claimed that the question about the Boer War was a conspiracy by certain people who had already planned to respond to any answer that he gave by

singing hymns and patriotic songs. With hindsight, he said, he should have ignored the question because the matter was dead. He reminded his audience that it was some time ago that he had made his Boer War comments in parliament and he now accepted that a decision had been made to send troops to South Africa. He said that he had always answered questions honestly and so he had answered this one in the same way. He repeated his claim that it was not illegal to oppose the war and remained confident that he could ride out this political storm.<sup>67</sup>

Earlier views and actions by Higgins that had tested the patience of the electorate resurfaced, including his petulant response to not winning the attorney generalship in the McLean ministry, his secularism, his angry reaction to public scrutiny, his support for Home Rule for Ireland, and his belated enthusiasm for the protection of Geelong's industries and jobs. More letters to the editor appeared on 31 October 1900. 'Gardez' called on the electorate to vote against 'disloyal Higgins who was pro-Boer, a free trader at heart, a Home Ruler and a Fenian'. 'Onlooker' said Higgins had previously rejected the 'paltry localism of Geelong politics' whereas he now tried to hoodwink the intelligent electorate of Geelong. 'Anti-Higgins' attacked his anti-war comments.

The editorial on 31 October 1900 noted that Higgins has 'a fatal gift of seeing things through a wrong light' but claimed that voters were attacking him for one reason, his anti-war stance. A suggestion that Higgins was somehow 'sincere in his disloyalty' was ridiculed. The editorial on election eve was more emphatic and represented a serious attack on a man who had previously been called a statesman and was the recipient of so much praise at the previous election:

The chief complaint against Higgins is his views on the Boer war: he does violence to the Imperial sentiment which prevails here and he is out of touch with the electorate with regard to the deployment of Victorian troops. He is alone in the Legislative Assembly, impossible to those with whom he might work in the interest of his constituency. He utterly fails to realize that legislation is a matter of mutual concession and that an egotist like himself has no place in parliament unless as an exponent of fads and crochets which satisfies the conceit of the member but which covers his constituents with ridicule and a disloyal reputation which they do not deserve. If the electors return Higgins they will do so at their own assessment and they know the cost.<sup>68</sup>

The following day the editor said that Higgins has 'committed nothing less than a crime against the loyal inhabitants of this constituency and [predicted] that the electorate will reject a politician that it cannot be proud of'.<sup>69</sup>

Readers of the *News of the Week and Western District Advertiser* were presented with similarly-worded reports of his meetings although this newspaper offered a more moderate view of Higgins' actions and opinions. The *News* failed to report any dissent and said that he had fully addressed recent criticism of his Boer War comments. The editor also reported Higgins' claim that the recent spate of letters was probably written by the same person. However, the *News'* election summary was the same as the *Geelong Advertiser* when its editor said that Higgins deserved to lose the election because he had 'committed nothing less than a crime against the sentiment of the constituency' and that every elector would see through the 'veiled disloyalty' of the candidate, however popular he may be.<sup>70</sup>



The *Geelong Times* had previously condemned Higgins but now took a very different view. Earlier, in October 1897, the *Times* said that Higgins was an unsuitable person to represent Geelong in the colonial parliament but now, in 1900, it praised him as a champion of the working classes and endorsed his re-election. The editor highlighted Higgins' efforts to create jobs in Geelong, his attempts to improve pensions and his efforts to improve the constitution of Australia. The editor said that the Boer War fracas was due to extremists and provocateurs and thought that the incident would not sway local voters. Geelong residents were urged to vote for the two incumbents; Messrs Gurr and Higgins, because of Gurr's ability to obtain government funding for Geelong and Higgins' moral fortitude. Both were described as 'good and faithful servants' of the Geelong community.<sup>71</sup>

However, it was the biggest-selling daily, the *Geelong Advertiser*, that held sway in Geelong and it is difficult to find examples of other newspaper editors<sup>72</sup> using terms such as 'disloyal', 'doing violence to the Imperial sentiment' and 'an enemy of the country' to describe a citizen, let alone its own popularly elected Member of Parliament. Disloyalty meant deceitful, false, treacherous, unfaithful and unpatriotic and the editor and electors knew what was meant when this word was used. Not surprisingly, when Higgins delivered his last speech on election eve, he was confronted by another angry crowd both inside and outside the hall. Many respectable citizens waved Union Jack flags and scimmages broke out in the hall.

The attack on Higgins' reputation and loyalty highlighted an interesting but unremarked situation. No one came to his defence. The colonial election was a quiet affair because one-quarter of all sitting MLA's were unchallenged and journalists and commentators agreed that there were no issues to be resolved. In spite of the spirited and long-running attack on Higgins in Geelong, no-one spoke in his favour at rallies, no-one wrote letters of rebuttal and no civic leader or friendly politician came to his aid. Higgins had never supported his colleagues in the past and none supported him this time.

The results of the election for the two seats of Geelong were as follows: Gurr easily retained his seat with 2,070 votes and Charles Andrews won the second seat with 1,880 votes. Higgins' vote had fallen to 1,642 votes and the other losers were Brownbill with 923 votes and Leon with only 642 votes. Higgins' vote had plummeted by 30% since the last election and he was beaten in every booth in the electorate. The *Geelong Advertiser* was delighted with the outcome and the *Geelong Times* said that 'not even Mr Higgins' worst enemy thought he would be so decisively defeated'.<sup>73</sup>

At the declaration of the poll, Higgins told the crowd that he bore no grudge toward them, that he had done his best for the people of Geelong and that he was about to retire to the privacy of his own life. But, for good measure, he resorted to his time-honored mode of farewell when he said that the voters had been 'led off the trail by a red herring' and that they would eventually be forced to concede that he had been unfairly treated by his opponents.<sup>74</sup> Later again he predicted that at some time in the future, 'Geelong residents will agree that Higgins has been wronged by many people'.<sup>75</sup> It is interesting to note that this was the fourth occasion (after two wins and two losses in colonial politics) that Higgins accused unnamed conspirators of undermining him. A small group of Higgins' loyalists arranged a testimonial dinner for their hero and thereafter Higgins' disappeared from Geelong.<sup>76</sup> The *Geelong Advertiser* concluded its post-election summary by saying that, if the election was fought on liberal lines, Higgins may have retained his seat but the electorate believed that Higgins had 'committed a crime against the voters because of his disloyalty' and the electorate was determined to show its imperial loyalty.

Three years later Higgins still opposed the Boer war and created a storm in the federal parliament when he made reference to Australia's young men killing the Boer on behalf of the British Empire. He spoke on the subject for ninety minutes, whilst insisting that he was a loyal subject. The *Geelong Advertiser* denounced his views as 'perverted and not suited to politics'.<sup>77</sup>

### Post-Geelong career

Five months after his shock defeat in Geelong, Higgins contested the federal seat of North Melbourne in the first Commonwealth election. The *Geelong Advertiser* chose not to mention Higgins' campaign although the Melbourne press expressed strong views on his candidature. The *Argus* opposed the 'pro-Boer candidates'<sup>78</sup> and may have been referring to Higgins when it said that 'none will regret the defeat of candidates of narrow intellect, narrow experience and narrow sentiment because true nation builders do not come from this class'. Higgins won the seat of North Melbourne with 59% of the primary votes against two opponents with the same political allegiance. He thanked his supporters and attacked the *Argus* for 'having dragged from the slime, the monster of bigotry and sectarianism' in its attempts to defeat him.<sup>79,80</sup> The *Geelong Advertiser* merely reported that 'the electors of North Melbourne have the services of an able representative, not withstanding his peculiar idiosyncrasies'.<sup>81</sup>

In 1904 Australia's first Labor Prime Minister, Christopher Watson, offered Higgins the position of Attorney General because of his legal ability and because his views were compatible with those of the Labor Party. Some of Watson's colleagues regarded Higgins as 'cold, contrary and civilized'<sup>82</sup> and others questioned his commitment to the Labor cause because he still refused to join the Labor Party. In December 1906 the North Melbourne branch of the Labor Party again endorsed him when he 'accepted the Party's platform as applied to federal politics'.<sup>83</sup> Weeks later, Higgins secured the judicial appointment that he so wanted when Alfred Deakin, the in-coming Prime Minister, appointed him a judge of the High Court of Australia. Later again, Higgins was appointed President of the Commonwealth Court of Conciliation and Arbitration and his first case was the 'fair and reasonable wage case'; forever after known as the Harvester Judgment. Higgins remained on the High Court until his death in January 1929.

The *Geelong Advertiser* said that news of Higgins' death had 'awakened memories in the minds of many old Geelong residents' who recalled that Higgins lost the seat of Geelong 'during the bitter controversy attached to his pro-Boer views'. The editor noted that the election in 1900, at which Higgins was defeated, 'marked what may be termed the fever heat epoch of political life in Geelong'.<sup>84</sup> The *Geelong Advertiser* reprinted a brief obituary from the Melbourne press but made no comment about Higgins' legacy to the voters of Geelong.

### Conclusion

In March 1895 Higgins led a ministerial tour of Geelong and lobbied the government to allocate funds to upgrade Geelong's port facilities. As the new MLA for Geelong, Higgins was confident that he could persuade the premier and cabinet to fund the project. In February 1896 Lord Brassey, the Governor of Victoria, visited Geelong and attended a number of civic events including a ball at the town hall. Higgins, now at the height of his popularity as the parliamentary representative of the

people of Geelong, attended and danced with several local matrons. In October 1900, only days before his political demise in Geelong, Higgins led another deputation to lobby the government for funds to improve the same dilapidated port facilities. These were three of only a handful of occasions when he was involved in local issues,<sup>85</sup> a situation which leaves us with the question: how do we assess Higgins' contribution as the MLA for Geelong? The answer seems to depend on our evaluation of his public persona and his skills as a law-maker, as opposed to his ability to do those things usually expected of a local Member of Parliament.<sup>86</sup>

Higgins' biographer, John Rickard,<sup>87</sup> uses such terms as 'a disaffected radical', 'a perverse and wayward character' who achieved notoriety because he was a 'lonely dissenter' on so many topics. The president of the conservative H.R. Nicholls Society, called Higgins 'a nut'.<sup>88</sup> Crisp argues that Higgins supported Federation but rejected the 'now-or-never', 'take-it-or-leave-it' attitude that permeated Australian society in the 1890s.<sup>89</sup> When Higgins nominated for Geelong in 1892 and again in 1894 he was widely regarded as a highly principled man with a 'brilliant legal mind'. After this first defeat, Higgins was sufficiently astute to change his views on free trade and tariff protection in order to appease the Geelong electorate but, on other matters, he insisted that his views should not be subjected to public debate simply because he was a politician. The two most obvious examples were his attitude to the *Constitution of the Commonwealth of Australia Bill* and his opposition to Victoria's involvement in the Boer War. The Geelong public and the press seemed perplexed but tolerant of his views on a range of subjects but not on one in particular: his alleged disloyalty in opposing Victorian troops fighting alongside the British army in South Africa, and his tardiness in singing patriotic hymns in Geelong. His speech in Geelong on 19 October 1900 generated an immediate reaction and, suddenly, all the earlier accusations about his peevish, naïve, and acrimonious behaviour resurfaced. Old claims that he was an atheist, a Fenian and a free trader found their way into print and were ably dealt with by Higgins but his ultimate crime, for which he had no defence, was his perceived disloyalty to Her Majesty Queen Victoria, and the British Empire.

At the local level, Higgins didn't achieve as much as Graham Berry or James Munro, two of Geelong's recent 'absentee' MLAs but, on the other hand, he didn't cause as much trouble either.<sup>90</sup> There is little doubt that he used the Geelong electorate as a springboard to a more fulfilling political and judicial career and his role as Geelong's MLA in the colonial parliament was negligible in his last three years in office. It is therefore ironic that the voters of Geelong tolerated his aloofness from local electoral matters and his lack of support for the *Commonwealth of Australia Bill*, but rejected him because of his personal view about a war on another continent.

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- <sup>1</sup> Cover illustration. Henry Bournes Higgins, portrait by J. H. Newman. <http://nla.gov.au/nla.pic-an23458326>
- <sup>2</sup> J. Rickard, *H.B. Higgins: the judge as rebel*, N. Palmer, *Henry Bournes Higgins: a memoir*; J. Hirst, *The Sentimental Nation; Geelong Advertiser*, 2 June 1898.
- <sup>3</sup> The *Geelong Advertiser* was the biggest selling and the most influential newspaper in Geelong but there others including the *Geelong Times* and the *Evening News*.
- <sup>4</sup> L.F. Crisp, *Federation Fathers*, 1990, makes no mention of Higgins' role as MLA for Geelong other than to note that he was in the colonial parliament from 1894 before losing his unnamed seat in 1900. Others such as Robert Garran, *Prosper the Commonwealth*; Alfred Deakin, *The Federal Story*; D. Headin and J. Williams, *Makers of Miracles: the cast of the federal story*; C.M.H. Clark, *The History of Australia: et al*, make no reference to Higgins' association with the Geelong electorate.
- <sup>5</sup> Higgins seldom attended social functions in Geelong, never spoke at a colleague's political rally or did any of the usual things associated with colonial politics.
- <sup>6</sup> P. Morgan, 'The progressive Liberal Strand in Victorian Politics', *Quadrant*, June 2011, pp. 53-57.
- <sup>7</sup> The election for the two seats of Geelong came about via general election in April 1892. Less than one month earlier a by-election had taken place due to the sudden departure of James Munro. John Rout Hopkins, a conservative from Winchelsea, won the seat but was now obliged to come before the electors for a second time in the same year.
- <sup>8</sup> Later, there was considerable criticism of non-performing absentee members. See for example *Geelong Advertiser*, 7 June 1894, 2 November 1900.
- <sup>9</sup> Messrs Berry, Munro, Hopkins, Andrews had, collectively, represented Geelong for almost fifty years.
- <sup>10</sup> D. Headon and J. Williams, *Makers of Miracles: the cast of the federal story*, pp.164-5.
- <sup>11</sup> Results were as follows: John Hopkins won 1,576 votes, Charles Andrews won 1,574 votes, William Gurr won 1,456 votes, George Martin won 1,216 votes and Henry Higgins came last with 1,034 votes.
- <sup>12</sup> S. O'Neill, 'Grover, Montague (1870-1943)', *Australian Dictionary of Biography*; R. McMullin, *So Monstrous a Travesty*, p. 101
- <sup>13</sup> *Geelong Advertiser*, 6-21 April 1892.
- <sup>14</sup> One meeting on 28 August 1894 at the Geelong Mechanics' Institute was organised by Alex. Dick and chaired by P. Smyth. Balcony seats were reserved for ladies.
- <sup>15</sup> *Geelong Advertiser*, 8-21 September 1894.
- <sup>16</sup> Hopkins also attracted considerable criticism when he admitted that, after an earlier election, he had paid an unsuccessful rival £100 for 'miscellaneous services', the implication being that he had sought to buy off a rival candidate.
- <sup>17</sup> Sommers was well supported by the *Geelong Evening News*.
- <sup>18</sup> P. Mansfield, *Graham Berry, Geelong's Radical Premier*, Geelong Historical Society Inc, 2006; P. Mansfield, 'Munro's offer to save Geelong from its own miserable mediocrity', *Respectable Behavior*, Geelong Historical Society Inc, 2008.
- <sup>19</sup> *Geelong Advertiser*, 14, 17 September 1894.
- <sup>20</sup> *Geelong Advertiser*, 14, 20 September 1894.
- <sup>21</sup> *Geelong Advertiser*, 21 September 1894.
- <sup>22</sup> *Ballarat Courier*, 24 February – 6 March 1897. Turner topped the poll with 3,791 votes followed by Quick 3,711, Peacock 3,462, Deakin 3,198. Higgins won 1,918 votes and came 7<sup>th</sup>.
- <sup>23</sup> *Geelong Advertiser*, 2 February – 3 March 1897.
- <sup>24</sup> *Geelong Advertiser*, 2 March 1897.
- <sup>25</sup> The electorate consisted of 5,400 and only 2,700 voted. Voter turnout at colonial elections was usually 70%.
- <sup>26</sup> Higgins favoured senate representation based on population but his motion was defeated by 41 votes to 5. A newspaper correspondent named 'A native of Australia but not a native Australian' agreed with Higgins, saying that he was a man of principle who should be re-elected to the Victorian parliament, whereas 'One man one vote' said that Higgins should accept the majority opinion and work to build consensus. *Geelong Advertiser*, 17-18 September 1897.
- <sup>27</sup> *Geelong Times*, 6 October 1897.
- <sup>28</sup> MLA's were paid £900 per annum.
- <sup>29</sup> *Geelong Advertiser*, 28 September 1897.
- <sup>30</sup> *Geelong Advertiser*, 5, 8 October 1897.
- <sup>31</sup> *Geelong Advertiser*, 17-18 September 1897.

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- <sup>32</sup> *Geelong Times*, 2-13 October 1897.
- <sup>33</sup> P. Mansfield, *In Perfectly Safe Hands*, p. 55
- <sup>34</sup> *Higgins Papers*, p. 108; John La Nauze, *Alfred Deakin*, p. 170.
- <sup>35</sup> Isaacs was voted into fifth place as one of Victoria's ten delegates to the Federal Convention.
- <sup>36</sup> *Bendigo Advertiser*, 16 March 1898; Alfred Deakin, *The Federal Story: the inner history of the federal cause 1880-1900*; *Geelong Advertiser*, 18 March 1898; W. Murdoch, *Alfred Deakin*, p.189.
- <sup>37</sup> *Argus*, 26 May 1896. At the ANA's annual conference in Geelong, which was hosted by the Corio branch, Higgins was a guest of honour and made a vigorous speech advocating federation.
- <sup>38</sup> A. Deakin, *The Federal Story: the inner history of the federal cause 1880-1900*, p. 90.
- <sup>39</sup> One of Higgins' critics was Richard A. Crouch, a failed political candidate, an advocate of the 'Yes' campaign and later, the first MHR for the federal seat of Corio. *Geelong Advertiser*, 2 June 1898.
- <sup>40</sup> *Geelong Times*, 1-3 June 1898.
- <sup>41</sup> *Age*, 17 March 1898.
- <sup>42</sup> *Geelong Advertiser*, 22 March 1898.
- <sup>43</sup> *Geelong Advertiser*, 19 April 1898.
- <sup>44</sup> H. Anderson, *Toscini: Radical arguments against Federation, 1897-1900*. 1977.
- <sup>45</sup> L.F. Crisp, *Federation Fathers*, 1990. Chapter 3: Federation Prophets without honour, p. 125
- <sup>46</sup> *Geelong Advertiser*, 20 April 1898.
- <sup>47</sup> Poll results. Victoria: Yes 93,703, No 20,654; Geelong: Yes 2,278, No 494; Barwon: Yes 995, No 92.
- <sup>48</sup> *Geelong Times*, 4 June 1898.
- <sup>49</sup> *Geelong Advertiser*, 26 July 1899.
- <sup>50</sup> *Geelong Advertiser*, 15 January 1929.
- <sup>51</sup> *Geelong Advertiser*, 25 May 1899. It was also claimed that Higgins talked about Victoria's economic plight in 'the most odious terms' and grossly distorted facts in order to bolster his unprincipled opposition to the Bill. But whether the editor was attacking Higgins for his anti-Victorian stance or his anti-federation stance is hard to determine.
- <sup>52</sup> *Geelong Advertiser*, 26-28 July 1899; John La Nauze, *Alfred Deakin*, p 172.
- <sup>53</sup> *Geelong Advertiser*, 26-28 July 1900.
- <sup>54</sup> The last time Britain was at war, in the Sudan, the colonies offered military support but the war was over before our soldiers arrived.
- <sup>55</sup> *Geelong Advertiser*, 11 October 1899.
- <sup>56</sup> Victoria. Legislative Assembly Debates, volume 92, 10 October 1899, p.1727; *Geelong Advertiser*, 11 October 1899; *Age*, 11 October 1899, reported that most of the younger parliamentarians voted against the motion whereas the older men supported the motion with great enthusiasm. The *Age* also reprinted that part of the parliamentary debate where, in response to concerns about the fate of 10,000 Australian miners presently in South Africa, Higgins said that 'they could fight for themselves'.
- <sup>57</sup> *Geelong Advertiser*, 7-10 February 1900; J. Rickard, *H.B. Higgins, the rebel as judge*, p. 118; *Age*, 13-14 February 1900, referred to the 'fatuous behavior' of Higgins and said that his arguments were 'foolish and absurdly inconsistent'.
- <sup>58</sup> There was still confusion as to whether a person could hold the dual positions of MLA or MLC in a state parliament and MHR in the federal parliament. The matter was resolved on 20 March 1901.
- <sup>59</sup> *Geelong Advertiser*, 20 October 1900; *Federal Record* (Geelong), No. 18, January 1901.
- <sup>60</sup> Singing 'God Save the Queen' signified the end of a public function. Making more speeches or singing hymns after the anthem was considered highly disrespectful.
- <sup>61</sup> D. Headon and J. Williams, *Makers of Miracles: the cast of the federal story*, pp.164-5.
- <sup>62</sup> *Geelong Advertiser*, 20 October 1901; *Federal Record* (Geelong), No. 18, January 1901. N. Palmer, *Henry Bournes Higgins: a memoir*, p. 161, offers a different view. Palmer was Higgins' niece and wrote this book two years after his death. She claims that the meeting started with anti-war hostility and that Higgins tried to bring the meeting back to the political issues. J. Rickard, *H.B. Higgins, the rebel as judge*, p. 119, offers yet another interpretation.
- <sup>63</sup> *Geelong Advertiser*, 22 October 1900.
- <sup>64</sup> *Geelong Advertiser*, 22 October 1900.
- <sup>65</sup> *Geelong Times*, 21 October 1900.
- <sup>66</sup> The following day another three anti-Higgins letters appeared. Three letters to the editor on any day on any topic was a rarity in this era so it seems that there was a campaign to highlight Higgins' failings and his disloyalty.
- <sup>67</sup> A.N. Wilson, *The Victorians*, p. 617, said that the British possessed the capacity of self-criticism and that those who opposed the Boer war were not driven underground, silenced or imprisoned as would be the case in other countries. But the citizens of Geelong were not so tolerant.

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<sup>68</sup> *Geelong Advertiser*, 1 November 1900.

<sup>69</sup> *Geelong Advertiser*, 2 November 1900.

<sup>70</sup> *News of the Week and Western District Advertiser*, 27 October 1900, 3 November 1900, 10 November 1900. The *News* was published every Saturday and readers made do with news that was up to a week-old. Thus on Saturday 3 November 1900, the *News* was still predicting a close race even though the election took place on 1 November 1900. The Ballarat *Star* attributed Higgins' defeat to his being 'an eccentric and a faddist of a pronounced type'.

<sup>71</sup> *Geelong Times*, 21 October – 2 November 1900.

<sup>72</sup> *Argus*, 28 March 1901. The Melbourne *Argus* held similar views. During the federal election in March 1901, Higgins was grouped with the other 'Anti-Contingent' men (Cook, McCay, Watt, Styles, Maloney) and readers were urged not to vote for any of them in the federal elections. Five of six of them had recently been dumped by voters (in state elections) for their views on the Boer War and the editor said that, if elected to the federal parliament, electors would be rewarding men who boasted that 'I voted against the empire' in November 1900. The *Age*, 20 October – 2 November 1900, adopted a more moderate view. Prior to the election it said that voters knew where they stood with the liberal candidates from Geelong and that Higgins had always strived to rise above the pettifogging behavior of his parliamentary colleagues. Also, the claims that Higgins was a Fenian were untrue. But, after the election it was reported that Higgins' defeat was not a big surprise because of his 'unfashionable views' in opposition to the Boer War. The editor predicted that Higgins would soon re-enter the political arena.

<sup>73</sup> *Geelong Times*, 3 November 1900.

<sup>74</sup> N. Palmer, *Henry Bournes Higgins: a memoir*, p. 164. Says that Higgins 'cheerfully lost his seat in Geelong' because of his opposition to the war.

<sup>75</sup> *Geelong Times*, 2 November 1900.

<sup>76</sup> *Geelong Advertiser*, 2 November 1900. On 2 May 1901 Higgins attended a banquet in honour of R. A. Crouch's victory in the federal election. He 'spoke kindly of Geelong' even though some people whom he thought were his supporters at the past election had opposed him because of his stance on the Factories Act.

<sup>77</sup> *Geelong Advertiser*, 16 January 1902.

<sup>78</sup> *The Argus* also opposed the five former MLA's who lost their seats in the colonial parliament in late-1900 because of their pro-Boer, anti-Empire views and who were now seeking federal seats.

<sup>79</sup> *Argus*, 28-30 March 1901.

<sup>80</sup> *Age*, 30 March 1901. The *Age* said that Higgins' victory was 'a very pronounced one' considering the ferocity of the attacks on him by the Free Traders.

<sup>81</sup> *Geelong Advertiser*, 30 March 1901. During the election campaign, Higgins published a booklet of his speeches and ideas. The *Geelong Advertiser*, 25 February 1901, said that 'no one can doubt his convictions or courage'.

<sup>82</sup> R. McMullin, *So Monstrous a Travesty: Chris Watson and the world's first national labour government*, p. 20; G. Blainey, *Our Side of the Country*, p. 150.

<sup>83</sup> *Argus*, 9 February 1901, R. McMullin, *So Monstrous a Travesty*, p. 101

<sup>84</sup> *Geelong Advertiser*, 15 January 1929.

<sup>85</sup> Other events that Higgins attended included functions at the Botanical Gardens, the opening of the Electric Light Company, and exhibitions at the Art Gallery.

<sup>86</sup> By the 1890s there was growing dissatisfaction with Geelong's members of parliament because they were not local, influential or even capable of retaining their own numbers in the parliament. Geelong had three MLAs from 1875, two from 1892 and only one from 1904. John Rout Hopkins was not the only 'local' politician to be criticized for neglecting his electorate. See P. Mansfield, *In perfectly safe hands: the history of local government in Geelong and district since 1836*, pp. 52-54.

<sup>87</sup> J. Rickard, *H.B. Higgins: the judge as rebel*, 1984; *Australian Dictionary of Biography*, Volume 9, p. 285.

<sup>88</sup> N.R. Evans, 'Australia and the H.R. Nicholls Society, Victorian Farmers and Graziers Industrial Association, 18 August 1987.

<sup>89</sup> L.F. Crisp, *Federation Fathers*, 1990, p. 121.

<sup>90</sup> Both Graham Berry and James Munro were landboomers who used their political and banking connections to further their own interests. Their lack of due diligence was instrumental in the bank crashes and economic depression that scarred Victoria in the early-1890s.