

AUSTRALIAN JUDICIAL OFFICERS ASSOCIATION COLLOQUIUM
SPEECH BY
HER EXCELLENCY THE HONOURABLE BARBARA BAKER AC
GOVERNOR OF TASMANIA
HENRY JONES ART HOTEL, FRIDAY 7 OCTOBER 2022

Good afternoon and I warmly welcome you all to Tasmania. Thank you, Justice Martin for your introduction. [AJOA President, introducing HE]

I pay my respects to the traditional and original owners of this land: the palawa people. I acknowledge the contemporary Tasmanian Aboriginal community and recognise their continued connection to land, sea, and culture. I recognise a history of truth, which acknowledges the impacts of colonisation upon our First People. I commit to a future that listens to and respects Aboriginal stories, culture and history.

May I acknowledge among us:

- Hon Justice Glenn Martin AM – President AJOA
- Hon Justice Michael Walton - Vice President AJOA
- Hon Justice Alan Blow AO – Chief Justice of the Supreme Court of Tasmania

May I state, at the outset, my support for the initiative of the Australian Association of Women Judges (AAWJ) to evacuate and resettle Afghan women judges. I am informed that 70 and their families remain in peril in their home country.

I hope that this initiative will not only help Afghan women judges, but also further encourage international humanitarian assistance in Afghanistan. I thank and acknowledge the call of our AAWJ.

In considering a topic for this talk to open this national Colloquium, I thought that it should lend itself in some way to our island State. As a national federal conference, one topic stands out for me – our Andrew Inglis Clark. Sir William Deane has fairly dubbed him as 'the primary architect of our constitution'.¹

Andrew Inglis Clark was born in 1848. His Scottish parents had emigrated to Van Diemen's Land in 1832. His father was a mechanical engineer and established successful engineering and timber mill businesses. After becoming a mechanical engineer and becoming the business manager of the family engineering business, Inglis Clark turned to the law, at the age of 24.

¹ <https://www.utas.edu.au/library/exhibitions/clark/work.html>

By that time, he was deeply involved in the study of political institutions and of British and American history and literature. He qualified as a lawyer in 1878 and was also elected to the lower house of Parliament. Defeated in 1882, he won back a seat in 1887, and was appointed as Attorney-General. He held office until 1897. He became a Supreme Court judge in 1898.²

By then, he had become an outstanding liberal reformer, determined to improve the political conditions in Van Diemen's Land. He introduced into Parliament 228 bills on a range of subjects.³ Significantly, Hare's electoral system was modified by Clark to achieve our Hare-Clark system of voting, still used today.

Inglis Clark was a delegate to the Federal Council of Australasia held in Hobart in 1888, 1889 and 1891, he was one of the representatives of Tasmania at the Federal Conference in Melbourne in 1890 and, at the Federal Convention in Sydney in 1891.⁴

Inglis Clark was fascinated by the United States of America. As a young lawyer, he presided at a dinner celebrating the Declaration of Independence, visited his idol Oliver Wendell Holmes in Boston, and became captivated by the US Constitution.⁵

In his book, *The Making of the Australian Commonwealth, 1889-1900*, Bernard Ringrose Wise wrote, "... That our Constitution so closely resembles that of the United States is due in a very large degree to the influence of Mr I.A. Clark..."⁶ This was a view shared by our late Supreme Court Justice, the Honourable Frank Neasey.

May I briefly mention some aspects of Andrew Inglis Clark's professional and personal life, some of which may be lesser known than his career milestones.

A Hobart *Mercury* newspaper biographical sketch of Clark, at the time of the second session of the Federal Council of Australasia opened by Sir Robert Hamilton, Governor of Tasmania, in 1888, included this:

² https://www.aph.gov.au/About_Parliament/Senate/Powers, accessed 30/09/22 *Andrew Inglis Clark and the Australian Federation*, The Hon. Frank Neasey Papers on Parliament No.13 November 1991, pages 5,6.

³ Stefan Petrow, Clark as Attorney-General in Papers on Parliament number 61 May 2024 quoted by John Williams, "Andrew Inglis Clark: Our Constitution and His Influence" p.83.

⁴ <https://adb.anu.edu.au/biography/clark-andrew-inglis-3211>, accessed 30 September 2022.

⁵ "Andrew Inglis Clark, Moby Dick and the Australian Constitution", Michael Tate, *Papers on Parliament* Number 61 May 2014 at page 1.

⁶ https://www.aph.gov.au/About_Parliament/Senate/Powers, accessed 30/09/22 Quoted from *Andrew Inglis Clark and the Australian Federation*, The Hon. Frank Neasey Papers on Parliament No.13 November 1991, page 3.

“Besides being a sound and able lawyer, with the envied reputation of being popularly known as an honest lawyer, he has far more pretension to scholarship, particularly with reference to history and *belles-lettres*, than is commonly met with in colonial legislators. He is a radical in the sense that he has faith in humanity, and believes in the inevitable march of progress, but his limited official life has been quite sufficient to dissipate the absurd notions once entertained by a few as to his supposed advanced opinions, though we, in common, with many others, have entirely disagreed with his opinions at times.”⁷

That acknowledgement of disagreement may well have been an overdue *mea culpa*, for ten years earlier, in 1878, the same Hobart *Mercury* had written this of him:

“Mr Clark is a rising young lawyer – very young, some 17 months standing, and is credited with holding such very extreme ultra-republican, if not revolutionary, ideas that we should hardly think he will prove acceptable to the electors of Norfolk Plains ... his views ... fit him for a place among Communists.”⁸

A biographical sketch in Launceston’s *Colonist* was somewhat more even-handed:

“As a lawyer Mr Clark has a first-class reputation in the capital, not only as a sound exponent of law, but as a thoroughly reliable man, one who studies his clients’ interest oftentimes to the detriment of himself financially...

“As a debater, his forte is combativeness, and, to use an expression of his own, he likes to ‘draw the badger’, and have it out with him. A thorough fighter ...”⁹

Referring back to Clark’s devotion to *belles-lettres*, he, like many Scots, wrote poetry. Almost all were unpublished, but many are described as “intimate” and “deeply personal”.¹⁰ They are gentle, passionate, reflective, often engaged with nature.

Yet one stands out as what would have been political dynamite had it surfaced at the time. This is because it was an attack on Alfred Deakin, Federation movement leader and three-term Prime Minister.

⁷ *Mercury*, Monday 16 January 1888, page 3.

⁸ *The Tasmanian* (Launceston), Saturday 20 July 1878 page 9, an article that is a scathing response to the Mercury piece which it quotes.

⁹ *Colonist* (Launceston), Saturday 21 July 1888, page 18.

¹⁰ Ely, Richard, “The Poetry of Inglis Clark” in *A Living Force: Andrew Inglis Clark and the Ideal of Commonwealth*, edited by R. Ely, M Haward, J Warden, Hobart, Centre for Tasmanian Historical Studies, 2001, page 204.

Dr Richard Ely, a University of Tasmania historian, undertook some diligent sleuthing on a puzzling untitled Clark poem. Dr Ely described it as not merely satirical but, quote, a “savage outburst ... emotionally unrestrained ... [that] far exceeds other poems in bitterness”.¹¹

The poem included these three lines:

“... clothed in bold yet unctuous disgrace
Of broken faith – so cunningly devised
That no one could safely say that he had lied.”¹²

And Dr Ely later discovered that the last line of the poem – “Strong as a fortress, sacred as a shrine” – “came from a major speech by Alfred Deakin to the 1891 Federal Convention in Melbourne.”¹³

Dr Ely reasoned that, although Deakin and Clark were on good terms, that must have been disturbed when Deakin offered Clark one of the five judicial positions on the proposed new High Court. Clark accepted, only for the number to be reduced to three, for cost-cutting reasons. Clark missed out.

Later, in 1906, the Court was expanded to five, during Deakin’s second prime ministership. Clark hoped to be appointed, but again missed out.

In recognition of the importance of Clark’s contribution to the Constitution, our University of Tasmania Library Special and Rare Materials Collection holds nearly 450 items in The Andrew Inglis Clark Collection. These include 17 handwritten poems. In 1996, the University Library purchased another 26 at a Christie’s auction.

While Andrew Inglis Clark has been largely remembered on the national stage in respect of the federal movement, rather than his contribution to Tasmanian politics and law, his contributions have now been recognised in Tasmania by the former electorate of Denison having been renamed to the electorate of Clark in 2019.

On this note, may I conclude by wishing you a most successful and enjoyable Colloquium.

Thank you.

¹¹ Ely, page 185.

¹² Ely, page 185.

¹³ Ely, page 185.