

## SUBMISSION OF PETER SHARP

### The 1886 Legislation: Half-caste Act

My name is Peter Sharp.

I live near Geelong and grew up in Naarm, Melbourne. I have spent most of my life on Wurundjeri, Boonwurrung or Wadawurrung lands, south of the Great Dividing Range and surrounding Port Phillip Bay. These lands were cared for by the Kulin nation for thousands of years and never ceded. I pay my respects to their Elders past, present and future.

I was born in 1951 in the then British Colony of Southern Rhodesia which was seized from the Ndebele and Shona peoples in 1894 by the first ever use of machine guns in combat. For the first six years of my life I experienced a tiny colonial white settler society ruling the much larger indigenous population. Arriving in Melbourne in 1958 aged 6, I thought it was part of England because, for the next six years at least, I saw only white people. My mother was born in Melbourne, and her maternal grandfather was Alfred Deakin, Australia's second Prime Minister.

The story of the invasion of Australia and dispossession of the First Nations is now well recognised and documented though it was long hidden and denied.

This is another story hidden and denied, a "story that was never meant to be told", as Stan Grant has said.

Alfred Deakin was born in 1856 in George Street Fitzroy in the newly self-governing British Colony of Victoria. In 1863, his family bought some land in South Yarra and had their house moved there, near the north-west corner of what is now Fawkner Park, a traditional meeting place for Boonwurrung people in the bush, just a short walk from the Deakin home.

A story in my family is that as a seven-year-old, Alfred preferred spending time with the Aboriginal people in Fawkner Park rather than going to school which was just a short walk in the other direction.

The Boonwurrung reserve at Mordialloc was closed at the end of 1863 and the residents forced to move to the new Coranderrk reserve near Healesville. Only a small number of older people remained in the area. Derrimut, Arweet (leader) of the Yallukit-Willam clan of the Boonwurrung, whose land included the Fawkner Park meeting place, when informed of the seizing of the reserve that had been promised in perpetuity, was so distraught at the dishonesty that he is said to have died of grief by early 1864. Derrimut had treated Fawkner as a visitor rather than a threat, and warned of a plan to attack his party in 1835 but in return he was betrayed.

It is possible that Derrimut was one of the group of Aboriginals that Deakin visited in Fawkner Park in 1863.

My own experience as a small child in Rhodesia, where I had a close relationship daily with several Ndebele domestic and farm workers, was of their warmth, humour, intelligence and humanity even though we shared only a few words of each other's language. I cannot help thinking that Deakin, at the same age experienced something similar.

As he grew older the Boonwurrung numbers nearby dwindled. At his school, Melbourne Grammar, Deakin absorbed the teachings of the Headmaster, Dr. Bromby, who was an avid Social Darwinist and supported the securing of the skull of the last Tasmanian "in the cause of antiquarian science".

As a seven-year-old Deakin would have seen Aboriginal people "dying out" and disappearing with his own eyes while at the same time he was taught that this was the predestined order of things. The settler population rose exponentially and the booming city of Melbourne grew bigger and richer.

These are the circumstances of Deakin's birth and upbringing. Like all of us, he had no choice as to his parents or to the place or time of his birth. But from this point on, the choices he made were his.

Deakin studied Law at the University of Melbourne and qualified as a barrister. Not getting any work, he found a job with The Age newspaper as a writer. He was only 23 in 1879 when the editor, David Syme, urged him to stand for a seat in the Lower House of the Victorian parliament. He stood in an electorate that he had never set foot in, which stretched from the sea to the Great Dividing Range and he won it.

He admitted that he knew nothing about anything at all except what he had read in books by British authors such as Spencer, Carlyle, Mill, Ruskin, Wordsworth and Coleridge. Anything he knew about Australia before he joined The Age was from its conservative rival, The Argus. His fellow student, future High Court Judge H. B. Higgins, said Deakin claimed the world was entering a new epoch of history with the philosophy of Herbert Spencer, later to be termed Social Darwinism.

In 1879, Deakin wrote an epigram which expressed his thinking and from which he seems never to have wavered:

"The Real is what the senses see. The Ideal is what the Soul sees."

His Ideal had become the superiority of Anglo-Saxon "race" and culture in all its aspects and it followed from this that he should aspire to promote this Ideal in the land where he lived. The pseudo-science of Social Darwinism provided all the justification he desired to support his belief in this Ideal.

He had also become involved with Spiritualism and regularly consulted clairvoyants for predictions concerning his future. Because there was an irregularity in the polling in the seat he had won, he made a flowery maiden speech to the parliament and then announced his resignation as a matter of principle.

He stood again twice and failed but then a clairvoyant told him he would be elected within six months of his last failure. This seemed impossible but in fact proved to be the case in July 1880.

These events formed several things in Deakin's mind. He found that his resignation, while costing him in some ways, gained for him a reputation for high principles which he decided he would always work to maintain as an advantageous image, giving him the opportunity to get away with political tricks behind its cover.

He also began to believe that he had been chosen for a Divine Destiny that was being predicted by the spiritualist mediums.

And he believed his Destiny was to work for his race to unite in achieving his Ideal, the exclusive occupation of an entire continent, eventually becoming the policy known as "White Australia".

In 1879, the Board for the Protection for the Aborigines (BPA) wrote to the Chief Secretary and Premier, Graham Berry, reporting "the painful fact that the aborigines throughout Victoria are rapidly decreasing in numbers." Aboriginal policy was in the Ministerial portfolio of the Chief Secretary who was also ex officio Chairman of the Board, although not expected to attend Board meetings.

In 1881, an influenza epidemic killed nearly ten percent of the overall population of the Colony of Victoria including nearly twenty percent of the Aboriginal population.

The perception in Deakin's mind, formed when he saw it himself as a child and confirmed by opinions he read and heard, was that Aboriginal people were a "doomed race".

By 1881, he had also begun to embrace the possibility, which was beginning to be considered more widely, that the colonies could form a federation and thus achieve his Ideal, "that the continent has been reserved for Anglo-Saxons only", as he later said. He added, "It is upon them that this prize has been bestowed, not as a gift, but a guerdon (reward). Theirs has been the bloodless heroism of labour."

As a backbencher in 1882, as evidence that his vision was for the continent, not just the colony of Victoria, and still obviously confident that the numbers of Aborigines would continue to fall, he wrote in a petition to the then Chief Secretary, James Grant, in support of the residents of the Coranderrk Aboriginal reserve at Healesville that:

“...they are the last remnant of a doomed race which in a few years will have passed from the continent we have colonised and all we desire is that through you, Sir, they may be enabled to end their days in peace.”

Significantly, he refers here to the race vanishing from the continent, not just from the Colony of Victoria. This is the first instance of a mantra which he was to repeat for the next quarter of a century, always stating emphatically the regrettable certainty of extinction but always equally emphasising that it was despite all benevolent efforts to prevent it, thus maintaining his reputation for high principles while never failing to stress its inevitability.

In 1883, at age twenty-six, Deakin was made Minister for Water Supply, a promotion forecast by the clairvoyants. It also was about this time he would have become aware that the number of Aboriginal people in Victoria was now actually rising, possibly because the growing numbers of the younger mixed-heritage generation had more resistance to disease. Suddenly the certainty of Aboriginal people dying out was in question, which presented a problem for Deakin's Ideal. If the numbers continued to recover, his vision “that the continent has been reserved for Anglo-Saxons only” was in jeopardy.

In 1884, the BPA was also concerned at the rising numbers for which they were responsible. They presented a request to the Chief Secretary, Graham Berry, to amend the 1869 Act to Provide for the Protection and Management of the Aboriginal Natives of Victoria, under which the Board had been appointed. After the Premier and Treasurer, the Chief Secretary was the most powerful government position, sometimes held by the Premier himself.

The BPA outlined their requests in a single page letter, the central issue being that the younger (under 35) able-bodied, mixed heritage population, termed “aboriginal half-castes” in the 1869 Act, should “be told” to leave the reserves and earn their own living, whereas under the 1869 Act the reverse was the case, they were forbidden to leave reserves to work without a certificate of permission.

The proposal was also made “that all half-caste orphans be transferred to the orphanages” to remove them from “the indolent habits and manners of their original black friends”. In the nineteenth century, children were deemed orphans if they did not have a father to support them.

However, nowhere in the request was there mention of the mixed-heritage adults being sent off the reserves by force, nor, most importantly, that they were to be redefined as not Aboriginal by law.

Berry responded that “he would have the Act amended... generally in the direction suggested by the Board.”

During 1884, the Board of Protection (BPA) regularly wrote asking Berry if he was acting on the request for the Amendment to the 1869 Act, but each time he prevaricated and instead, in July 1884, he gazetted Coranderrk as a Permanent Reserve, against the BPA's wishes.

While there is evidence that Berry requested an amendment be drafted, there is no evidence of it eventuating. All this implies that Berry had misgivings about the harshness of some of the requests and was not sure of political support at the time to propose watered-down legislation.

It is important to recognise that the BPA was an unpaid Board of prominent citizens appointed by the Governor under the 1869 Act to advise, but they had no power to enact legislation. Only the Chief Secretary could direct new legislation to be drawn up and only Parliament could pass it.

In November 1884, Deakin wrote this prayer: "Make me Thy servant and the servant of my race and grant me greatness and thoroughness of service though at every step of service I must sacrifice myself."

In 1885, Deakin, as Minister for Water Supply travelled to California ("settled by the pick of the Anglo-Saxon race") to study irrigation and there he saw the aftermath of the Civil War and the consequent racial conflict.

This only further confirmed and hardened his belief in the racial purity of a nation as an Ideal.

When Deakin returned to Melbourne, Berry had still not presented any amendment to Parliament and resigned late in December 1885.

Berry was then appointed Agent General for Victoria in London and in February 1886, before he left, Wurundjeri Ngurungaeta, Beruk (William Barak) led a deputation from Coranderrk to Melbourne bearing an elaborate letter to thank him for his support. This is the letter presented to Premier Allan in April 2024 by Beruk's descendant, Jacqui Wandin, on land that was part of the Coranderrk Reserve.

After the election on 5<sup>th</sup> March 1886, Deakin, not yet thirty years of age, replaced Berry as Chief Secretary, and thus responsibility for Aboriginal policy.

I believe this was a very significant moment.

Suddenly Deakin, knowing full well what the BPA were requesting, saw that he had the opportunity to ensure that the number of people recognised as Aboriginal in Victoria could be drastically reduced and then would continue to decline.

He could have a hand in framing and pushing through the legislation to amend the 1869 Act in such a way as to be seen to satisfy the BPA and in doing so redefine those who were to be recognised as Aboriginal. This would achieve his aim while the glove of the BPA would hide his

fingerprints. It was a fleeting moment of political opportunity. I believe it is possible that it was also a momentary crisis of conscience for him. However, he did not hesitate long.

By 29<sup>th</sup> March 1886, just over two weeks after taking office, in total contrast to Berry's procrastination, Deakin directed his office to immediately begin to prepare a draft Act, the first of which, handwritten, is dated 12<sup>th</sup> April 1886.

The writing is that of John Aloysius Gurner, the Parliamentary Draftsman and instructions to the Government Printer are in the hand of Edward Guinness, the Chief Parliamentary Counsel, who acted as the link between Chief Secretary Deakin and Gurner. All three men were barristers of similar age. Deakin had been Crown Solicitor from March 1883 to April 1884.

Neither Guinness nor Gurner had any direct responsibility for Aboriginal matters in particular; their role was to correctly prepare legislation according to instructions from whichever relevant Minister. As it happens, Gurner was the nephew of Edward Micklethwaite Curr, a colourful former member of the BPA who had resigned in 1883. Curr's views, expressed at the 1877 Royal Commission into the Treatment of the Aborigines in Victoria, were quite contrary to those now driving the BPA and his resignation was mostly due to this. Having read Gurner's memoirs I think it is unlikely he had any direct influence.

The 1869 Act deemed "aboriginal natives of Australia" and "aboriginal half-castes" to be "aboriginal" under the Act.

A sequence of five more printed drafts with handwritten edits, including changes in detail and wording, followed over the next weeks until, on 26<sup>th</sup> May 1886, 15 copies titled "Rough draft for cabinet" were printed. Presumably some of these were presented to the cabinet for consideration and some to the BPA, whose minutes record this draft being received and read by them at their meeting of 2<sup>nd</sup> June 1886, although no comment is recorded.

In the draft Act presented to Cabinet and to the BPA, those termed "aboriginal half-castes" were to be forced off the Reserves if they had not turned 35 by 1<sup>st</sup> January 1887. They were still termed "aboriginal half-castes" but, after a certain date, they were no longer deemed "aboriginal" under the Act, and therefore not eligible to receive rations, blankets or clothing, nor to reside on any reserve or even associate with those deemed "aboriginal".

The requests of the BPA could have been satisfied by legislating that those able-bodied persons of mixed heritage, termed "aboriginal half-castes", under 35 could be denied rations and residence on reserves without the need to redefine them as not "aboriginal".

All drafts of the proposed Act until this stage, contained seven clauses only.

On 3<sup>rd</sup> June 1886, a single proof of the draft legislation was printed, considerably reworded, now contained eleven clauses, including two which described harsh penalties for breaches of

regulations. A twelfth clause, handwritten and also punitive, was pinned to the printed copy, later inserted into the final draft as Clause 5.

And the term “aboriginal half-caste” had been replaced by “half-caste”. In the drafts up until this point, the terms “aboriginal half-caste” or “half-caste aboriginal” had been used consistently.

What this emphasises is that the intent of the legislation was not just to deny the mixed heritage population the right to government support or the right to live on or enter a Reserve. It was to deny them any claim to Aboriginal identity at all. The alteration of “aboriginal half-caste” to “half-caste” closed any possible loophole that might have enabled a claim.

It meant that, after an initial phasing in period, the number of persons to be legally counted as “Aborigines” in Victoria would once again begin to fall.

It is hard to believe that when Deakin directed Guinness to begin the process of drafting the legislation he would not have discussed with Guinness how he wanted it to be framed and what he wanted it to contain.

Gurner, as draftsman, is unlikely to have had any significant input into the actual policy of the Bill. His job was purely to word it in such a way as to be effective, legal and unambiguous. Guinness might have had some input under instruction from Deakin but, given the number of draft versions, it would seem likely that Deakin was directly scrutinising each draft and directing further rewording. Guinness’ handwriting is very distinctive. Gurner’s and Deakin’s are quite similar, but there is at least one bit of handwriting on the margin of the first printed draft that is not Guinness’ and is directed to Gurner, so this could in fact be Deakin’s.

On 23<sup>rd</sup> June 1886, the Minister, Chief Secretary Alfred Deakin, tabled the above-mentioned single proof of the draft Bill without any comment or notice of its second reading. The Bill was introduced as an Act to amend the 1869 Act, titled “An Act to provide for the Protection and Management of the Aboriginal Natives of Victoria”. This title gave no indication of what radical changes it contained.

According to Standing Orders of the day, the convention was that Deakin should have announced a date for the second reading, usually within two weeks, when he would outline the main objectives of the Bill in his second reading speech, during which members would be handed the printed copies of the Bill. An adjournment would then be moved for another week or so, during which time the members could read the Bill and debate it before any third reading and passage of the Bill.

This did not happen. On 3<sup>rd</sup> July 1886 the tabled draft Bill was sent to the printer, now with the definition that those deemed to be Aboriginal in Victoria only included “aboriginal natives of Victoria” rather than “aboriginal natives of Australia”, further tightening eligibility.

Pinned to the edited single proof is a draft extra clause in the very distinctive handwriting of Edward Guinness, the Chief Parliamentary Counsel. Clause 5, as it became known, gave the Board the power to directly apply harsh punishment for breaches of the Act rather than referring to a magistrate.

On 21<sup>st</sup> July 1886, 500 copies of the Bill were printed in preparation for distribution to members at the Second Reading. It now contained 12 clauses with the addition of Clause 5.

It appears that the addition of this clause was leaked to the press because on 21<sup>st</sup> September 1886, a deputation led by Beruk walked from Coranderrk to Parliament to appeal to Deakin about its harshness. Deakin was “unavoidably unavailable” but his secretary accepted their petition, as The Argus reported next day. Deakin’s response was that he would put their wishes before Cabinet.

On the 7<sup>th</sup> October 1886, in the Supply session, Deakin told Parliament that the Aboriginal people were:

“... very properly described as a nearly extinct race and therefore the expense attending their maintenance should become less and less. There was at the present moment a Bill on the table under which the State would get rid of the maintenance of half-castes...”

After having made all haste to prepare the Bill and table it in June, Deakin chose to delay its second and third readings till the very last item of business for the parliamentary year. This tactic ensured that there would be no opportunity for debate if he could avoid an adjournment.

Late at night on 15<sup>th</sup> December 1886, Deakin finally addressed the second reading. The members only received the four-page printed Bill as Deakin began his speech. There were twelve clauses and within them 15 different regulations. The language was complex and convoluted, for example:

“...but when used elsewhere than in this and the next succeeding section the term shall unless the context requires a different meaning be read and construed as excluding such half-castes as under the provisions of this Act are deemed to be aboriginals.”

Deakin’s speech took about two minutes. No-one would have expected his speech to be so short. To read the text of the Bill quickly would take at least three times that and to comprehend the Bill properly would take much more time and several readings at least. Deakin’s tactics were well planned.

In introducing the Bill, he emphasised it was carrying out the recommendations of the Board. He then stated that it “provided for the licensing out of half-castes by the Board, so that they might be educated to earn their own living”. This in itself is completely untrue and deceptive. Licensing out had always been possible and specifically described in the 1869 Act.



Nowhere in the text of the proposed amendment was there any mention of licensing out. The case was that, up until that time, any resident of a Reserve required a permit to leave the Reserve and seek work. To the contrary, now, under the proposed amendment, "half-castes" under the age of 35 could now only reside on a Reserve if holding a temporary licence in writing, to do so at the discretion of the Board.

What the Act was doing was legally forbidding those half-castes under 35 to remain on the Reserves or receive support because they were no longer deemed "aboriginal". Deakin carefully made no mention of the central element of the legislation which alters the definition of who is deemed to be "aboriginal" in Victoria. And there was no mention at all of the powers to remove half-caste children.

The wording of the legislation was carefully crafted so that the definition is not immediately clear and the full impact disguised. Many of the clauses are so convoluted that they are extremely difficult to comprehend even after several readings.

The clauses relating to punishments for breaching the Act drew more attention because they are in much plainer language and members were familiar with Clause 5 which had already been leaked.

Deakin cleverly brought attention to Clause 5, allowing banishment or withholding of rations, describing how it was "intended" to be amended by committee. Member Allan McLean interjected that Clause 5 "better be omitted". Deakin immediately replied that he had no objection and the clause was struck out.

The original request from the Board (BPA) in 1884 had made no request for punitive powers, but the final legislation not only covertly included Clause 5 but also a provision in Clause 11 that "Any able-bodied half-caste being found lodging, living or wandering in company with any aboriginal without excuse could be gaoled for up to 12 months with hard labour".

This was objected to by a member, Mr Thomas Bent, who said he doubted very much whether the Board was doing the thing that it ought to do. This clause was again immediately struck out by Deakin.

Clause 12 was also objected to as it allowed a magistrate to determine in his own view whether an individual is Aboriginal or not, or of a certain age or not. Deakin struck it out. The Bill was then voted on amid uproar and passed.

This legislation, which was to have such devastating effects and ongoing consequences which can never be reversed, was passed by deceit and stealth in under ten minutes. In fact, the entire Hansard transcription can be read aloud at a measured pace in four minutes and thirty-eight seconds.

Hansard records that two members voiced protest against “a travesty on legislation” or “hasty legislation with a vengeance”. One said that “he objected to the government refraining from passing Bills until the last moments of a session, and then rushing them through in such an indecent manner... without discussion. This sort of legislation was a disgrace to Parliament”.

The Argus reported the next day:

“Members of the Legislative Assembly spent the last night of the session in a hilarious mood, as usual. The subjects before them changed so rapidly that fixed thought on any topic was out of the question, and time passed pleasantly in consequence...

In the last ten minutes left to the Government, Mr Deakin scored by pushing the Aborigines Protection Bill through in all its stages. Some members were irate, and protested against hasty legislation...but their voices were barely heard in the din.”

Deakin’s manipulation of the legislation, from its drafting to its passage into law, worked to perfection. He got everything into the Act that he desired, the single most important thing being the redefinition of persons deemed Aboriginal in Victoria. On top of that, the Act was seen as being entirely attributed to the BPA. It continues to be to this day even though the names of those on the Board quickly faded into obscurity.

The 1886 Act quickly became feared and notorious among the Aboriginal community and known by all as “The Half-caste Act”.

But after The Argus article above, published on 16<sup>th</sup> December 1886, to my knowledge and after extensive research, Alfred Deakin’s name was never mentioned again in connection with the “Half-caste Act” for 103 years.

I write this again in capitals because I think it is of such significance:

**ALFRED DEAKIN’S NAME WAS NOT MENTIONED AGAIN IN CONNECTION WITH THE “HALF-CASTE ACT” FOR 103 YEARS.**

The earliest next mention I have found is in Bain Attwood’s “The Making of the Aborigines” published in 1989. He quotes Hansard and The Argus as his references but no other sources.

Diane Barwick mentions it in “Rebellion at Coranderrk”. This was not published until 1998, twelve years after her death in 1986, so it is possible that Attwood accessed her unpublished work.

In stark contrast, the day after Deakin tabled the amendment on 23<sup>rd</sup> June 1886 without comment, he made his second reading speech on the Irrigation Bill. He spoke for four hours, presenting a persuasive, evidence-based argument for the Bill to a sceptical Parliament. Though there was vigorous debate, he managed to get it passed in December in the same session that

passed the Bill for the “Half-caste Act” about which he spoke for less than two minutes, presenting an untrue statement, with no evidence and no debate.

What this means is that Deakin continued in his political career with his reputation for being a supporter of Aboriginal rights intact instead of being recognised as the executive power that enabled the “most draconian legislation of its time”, as Richard Broome termed it. It also means that over the 103 years historians, students, even the generations of Aboriginal people affected by the policy and Deakin’s own descendants did not associate him with this profoundly destructive legislation or, in fact, with Aboriginal policy in general.

Neither the first biography of Deakin in 1923, by Walter Murdoch, who had known and worked with him, or the extensive two-volume work by J. A. La Nauze in 1965, even mention the words Aborigine or Aboriginal. This is exactly as Deakin intended, and given what has recently been revealed in the University of Melbourne’s recent publication, *Dhoombak Goobgoowana*, about the racist views of La Nauze, it is not surprising that he omitted any mention, even if he knew of it.

In the same publication, *Dhoombak Goobgoowana*, the views and actions of Baldwin Spencer were revealed. It was Deakin who chose Spencer, after many discussions with him, to be Chief Protector of Aborigines in the Northern Territory, when the Federal Government took responsibility in 1911, even though he was actually appointed by Andrew Fisher because Deakin lost office before the official appointment was made. Deakin declared that Spencer’s appointment was “a guarantee that the aboriginal population is well dealt with”. Spencer advocated the removal of all Aboriginal children, not just those of mixed heritage.

It should also be said that when Deakin University was founded in 1974, Deakin’s role in determining Aboriginal policy was still not recognised. When Vice Chancellor Iain Martin answered Commissioner Walter’s extremely pertinent question at Yoorrook asking what exactly it was that Deakin had done, his brief reply was, that it included not only the White Australia policy, but also the Half-caste Act. This was quite a breakthrough.

The 1886 legislation is without question the beginning of the Stolen Generations. Similar legislation was adopted in principle by Queensland in 1897, Western Australia in 1905, New South Wales in 1909 (almost verbatim), South Australia in 1910 and the Northern Territory in 1911. Victoria was seen as the progressive leader, so the precedent was easy to follow.

Victoria’s Bill went to the Legislative Council sometime after midnight in the early hours of 16<sup>th</sup> December 1886. The Honourable J. Lorimer who introduced it, stated that:

“Half-castes were multiplying very largely at the aboriginal stations. According to the existing law half-castes were regarded as aborigines, but adult half-castes were quite capable of earning their own livelihood and the object of the Bill was to provide for their being gradually drafted into different occupations throughout the colony under suitable regulations ...”

Again, the truth was only being half told and the Bill passed without any debate at all.

In the afternoon of 16<sup>th</sup> December 1886, the Governor signed the Bill and, with the stroke of a pen, Deakin could say that the Aboriginal population of Victoria would be half what it was and be assured that it would continue to decline. He believed that his Ideal, that “the continent has been reserved for Anglo-Saxons only”, would no longer be threatened.

The fact that the BPA had requested an amendment to the Act, that Berry had failed to proceed with it and that he, Deakin, had at the critical moment landed in the position as Chief Secretary, must have been a further sign to him of his Divine Destiny.

Deakin wrote in his diary on New Year’s Eve, “a successful year publicly... still rising higher and higher”.

On 11<sup>th</sup> January 1887, he was chosen to represent Victoria at the Colonial Conference in London, which fulfilled another of the clairvoyants’ predictions and confirmed his belief that he had a Divine Destiny to work to bring about his Ideal.

At the conference, representing their governments, were future Queensland premier Samuel Griffith, Western Australian Premier John Forrest and South Australian Premier John Downer. There was opportunity for private conversations between these men while they were together for many weeks, and topics would have undoubtedly included the subject of Aboriginal policy.

If Deakin did not before know what was really going on in the colonies, where wholesale slaughter of the Aboriginal population was in full swing, he would have learned it then. John Forrest’s brother, Alexander, advocated for the introduction of a Native Police Force in the West Australian parliament in 1893, the use of which had originated in Victoria and then on a huge scale in Queensland. During this speech he said,

“I ask whether the life of one European is not worth a thousand natives as far as the settlement of this country is concerned?”

Around this time, Deakin wrote to a close friend and fellow parliamentarian to hatch a plan to drive another parliamentarian insolvent so as to gain his seat for one on their own side. He wrote that it should be done “with the most elaborate caution and circumspection, so that it could not be traced to any of us under any circumstances”. Referencing this, his most recent biographer, Judith Brett, wrote, “this shows a scheming Deakin of which little evidence survives. Clearly, at least when young, Deakin had an appetite for intrigue which belied his reputation for moral rectitude”.

Little evidence survives because Deakin was very, very skilful at the art of deception.

Although Deakin took all measures to conceal his hand, careful examination shows all the evidence of his deliberate manipulation of the legislative process to ensure the intent, content, and unhindered passage of the 1886 Act achieved the outcome he sought.

While there was widespread support in Victoria for encouraging the younger, mixed heritage Aboriginal population to leave the Reserves to earn their own living, it cannot be said that there was complete support for deeming them not to be Aboriginal or for the forced removal of children from their communities into orphanages.

Everything embodied in the 1886 Act contradicted the findings of the Royal Commission on The Aborigines of 1877 which, among other things, said:

“The semblance of attention to outward appearance, and a ready conformity to conventional rules, have probably led to the misapprehension that any sound distinction could be drawn between the Aboriginal Native and the half-caste.”

And:

“To enlarge the stations whose area is insufficient, to fence them in and stock them, would doubtless involve an increased expenditure for some years; but this would be the truest economy, and would lead to the best results as regards the natives themselves.”

“The care of the natives who have been dispossessed of their inheritance by colonization is a sacred obligation upon those who have entered upon the land. When the revenues derived from the territory of Victoria are compared with the pittance required to continue the policy initiated by Parliament on behalf of the scanty remnant of the natives who are left, it cannot be doubted that the government will gladly keep alive, on their behalf, the system which has already done so much good.”

“There are those who think it too premature to assert that the race must necessarily disappear altogether, and that though at present they have not the moral force to hold their own in the struggle for life, they may in future generations acquire the resolution and provident habits which would enable them to do so.”

Although the sensational political events of “Black Wednesday” in January 1878 and the rise of the Kelly gang later in the year would have kept reports of the Royal Commission in the background, Deakin was writing for *The Age* at that time and it is hard to believe he would not have read it. It was said of him and his phenomenal memory that there was nothing he ever read or heard that he could not recall at a moment.

Beruk (William Barak), in his deputations to Berry and then Deakin, from the Coranderrk Reserve, had asked for land for the Kulin to call their own, to preserve their culture and support themselves on, just as his cousin Wonga had done before him. And the younger, mostly mixed

heritage generation, were vital as an educated labour force to the success of self-sufficient communities.

On 21<sup>st</sup> September 1886, Beruk and Thomas Bamfield (“Punch”) from the Coranderrk Reserve, walked to Melbourne to deliver a hand-written petition to the Chief Secretary, Mr. Deakin. The petition expressed the strong opposition of the Coranderrk Aborigines to the punitive Clause 5 in the proposed legislation. Deakin was “unavoidably absent” and unable to receive Barak’s deputation himself.

The petition begins ...

“Sir, We ask for our wishes, that is, could we get our freedom to go away shearing and harvesting, and to come home when we wish, and also to go for the good of our health when we need it; and we aboriginals all wish and hope to have freedom, not to be bound down by the protection of the Board, as, as it says in the Bill (Clause 5), But we should be free like the white population...”

(signed by Barak and 16 other men)

Deakin ignored Beruk’s petition, in spite of its request that the Coranderrk residents be free to come and go from the Reserve as they wished, including for work, which was in fact, the purported aim that the 1886 Amendment intended to enforce. Beruk’s plea was made in the interests of preserving his community and culture. The object of the Amendment was to destroy it, which it almost did.

Deakin returned from London later in 1887 to huge acclaim. He had dazzled the Colonial Conference with his eloquence and been offered a knighthood, which he declined, further enhancing his image of being a man of high principles.

He had successfully disguised his role in the passing of what quickly became known as the “Half-caste Act” and it has ever since been attributed solely to the Board (BPA).

In 1889, however, Deakin came very close to losing his disguise when he backed the attempt by the BPA to close the Framlingham Reserve and transfer the land to the Agriculture Department for an experimental farm. Even the local farming community, who supported the idea of the farm, but not the closing of the Reserve, sent a petition with 500 signatories to that effect. The Member for Warrnambool, John Murray, vigorously opposed the closure and demanded 500 acres be retained, but for over a year Deakin resisted and played devious games until it became obvious it would be politically damaging to continue. He backed down for expediency.

Suffice to say that if he had had his way Framlingham would not exist today. There are six or eight pages of Hansard as evidence.

I believe Deakin was the force that drove the 1886 Amendment to its final, lethal form from behind the scenes to suit his end which was to ensure the elimination of the Aboriginal People, enabling his long-term vision and Ideal of White Australia.

As Berry's prevarication showed, the BPA was powerless to have legislation put forward without the Chief Secretary's direct action. Deakin however was very happy to maintain his image of being high principled by appearing to be only doing the will of the BPA. But as he showed in the way he struck out clauses in the final session, he was the one who could actually determine the final form. Some of them, especially Clause 5, may even have been inserted deliberately as decoy targets with the intention of being sacrificial to divert attention from the main content and give an impression of benevolence and compromise.

Whatever the case, the drafting, tabling, presentation of copies to members, final readings, lack of debate, and striking out of clauses were done in such an irregular manner that raises many questions and points to deception taking place.

And however much direct input Deakin had to the drafting, in the end he got exactly what he wanted – and that is the most, most important point. This was very much the way he worked all his career, steering other parties to take the action that he wanted.

I believe that Deakin was faced with a position he had not anticipated when he realised that the reality was that Aboriginal people were not going to die out and vanish as he had been led to believe.

Deakin had an Ideal that he was not going to let go of and when, by chance, an opportunity appeared for what perhaps was only a fleeting moment in political terms he had to decide whether or not to take it.

Berry had prevaricated because he realised the harshness of the Act even as originally proposed. But Deakin was decisive and, as he had the cover of the BPA having requested the bill from Berry, he knew there was the opportunity to keep himself well hidden from responsibility.

For the rest of his life, Deakin repeated the following mantra in one form or another, but always emphasising three points, which I paraphrase as:

“They are a doomed race. It is a great pity. But we have done everything we could to prevent it.”

Only once, perhaps, did he slip up, possibly because he felt secure with a like-minded audience at a private function, a banquet of the Australian Natives Association in 1904. The Brisbane Courier reported him as saying

“The races that inhabited Australia were gradually fading away. If we had any regrets for this early disappearance of the blacks, we had much to be thankful for in thus early getting rid of what might have turned out to be a great incubus” (An incubus being a nightmare, especially of a woman being raped by a demon).

But perhaps Deakin was also disturbed by what he knew he had done, expressed in this prayer in 1888, written just two years after passing the 1886 “Half-caste Act”.

“After again a long silence something has been wakened in me by the burning iron of remorse. Aid me, O God, to atone for the past and if it be possible to undo or even remove the evil done to others. After this enable me to conquer the evil which it has done to me and to kill the root of that evil within me.”

In summary, although he took every measure to cover his tracks, I believe that now after nearly 140 years, the evidence is clear that Deakin, more than any one person, was responsible for ensuring that the critical element of the 1886 Act was to categorically deny any persons of mixed heritage the right to be termed Aboriginal and, furthermore, to forcibly deny them contact with those deemed Aboriginal, thereby destroying their culture, kinship and language. For Deakin, it was to ensure he could still say the numbers were steadily declining. Would this be termed genocide under the 1948 UN definition?

The 1884 request for the amendment by the BPA is a document drafted by the Board members, none of whom had legal training, and it is loosely worded and not a legal document. The final sentence of the introduction to the request is often quoted: “The object aimed at is that the process of merging should be completed as soon as possible after which all responsibility of the Government as regards them would cease – *FINALITY* being thus attained.”

This may sound like an intention of genocide, but it is actually referring to the finality of the responsibility of the Government for support of half-castes and not making any direct reference to legal denial of Aboriginality or of targeted elimination of culture, kinship and language.

All the above is in reference to the passing of the 1886 Act in Victoria. This is such a significant piece of legislation in the history of Aboriginal policy. It was the first Act of its kind in any jurisdiction and it was adopted by all the others in due course.

When the federal Constitution was drafted, the fact that responsibility for Aboriginal policy was left with what were to become the States was no coincidence, and Deakin had influence in this. It meant that the Acts stemming from the 1886 Act in Victoria could be retained or enacted without scrutiny, especially from Britain.



Then, as the first Attorney General of the Commonwealth, Deakin made the decision that, in Section 127 of the Constitution, “half-castes are not aboriginal natives within the meaning of this section ...”, again securing his aim of being able to claim that the numbers were still in decline. This is exactly what he had done in the 1886 Act.

Deakin has always been identified as strongly and openly advocating for the White Australia Policy as one of its architects. His role in the 1901 Immigration Restriction Act has been clearly identified. But his active role in the attempt to eliminate the Aboriginal population has remained hidden.

The consequences of the Stolen Generations which the 1886 Act in Victoria and its equivalents in the other jurisdictions enabled, have at best been regarded as tragic, misguided, but well-intended policies, and at worst, seen to assimilate or integrate the First Nations peoples with the colonisers by the forcible destruction of kinship structures, language and culture.

It seems clear to me that perhaps by as early as 1883, Deakin realised that a White Australia was not possible unless active steps were taken to eliminate the Indigenous population. It was not going to happen passively. A blind eye could be turned as much as possible to the massacres in remote regions but, as he saw in Victoria, there would remain a population which could only be eliminated by other means. And he saw a chance to attempt it when suddenly the opportunity fell in front of him.

It can be argued that others would have attempted it if he had not, and of course others were necessarily involved.

But the fact that cannot be denied is that it was Deakin who passed the Act, who had the oversight and influence in its content and the position of power to manoeuvre it through the Parliament without debate. And I believe that he did it knowingly, deliberately and with full intent to have the consequences that were so devastating, despite it being based on no supporting evidence and in fact in denial of evidence that the policy was never going to succeed.

Deakin may have been the instigator, but the following generations maintained the policy and practices without question. What E. M. Curr said at the 1877 Royal Commission never changed.

“The fact is we have pretended, but never really wished to save them from extermination.”

I think that Marilyn Lake’s response to the Tony Wright article on Deakin in *The Age* in September 2023 shows that even well-respected academics are still pretending that the 1886 Act was well-intentioned but misguided.

Lake wrote:

“When Deakin passed the legislation in 1886 requiring the Aboriginal people of mixed descent assimilate into the broader community, he was of the progressive view that Aboriginal people were fully capable of living and working beside white people.”

She omits that, central to the Act was the redefinition of those of mixed heritage to no longer be legally regarded as Aboriginal. She also makes no mention of removal of children by force.

The fact was that Aboriginal people in Victoria, especially those of mixed heritage had long been saying – and proving – that they could live and work beside white people but had not been permitted to leave the Reserves to do so without a licence.

The original requests by the BPA would not satisfy the 1948 UN definition of genocide as Richard Broome says on page 188 of “Aboriginal Victorians” because “the Board did not explicitly discuss the need to end all aboriginal tradition in the absorption process”. Nor was the absorption specifically to be enforced.

Broome then goes on to say, “However, the government’s intention in the 1886 Act, of merging Aboriginal people into the community and increasingly denying access to land and children, would inevitably extinguish aboriginality, just what the 1948 definition outlawed”.

When Broome refers to “the government”, he does not acknowledge that the only member of the government to have any direct input into the drafting and passing of the 1886 Act was Alfred Deakin and the extinguishment of Aboriginality was precisely the intent of his intervention, which began just two weeks after he commenced as Chief Secretary.

In conclusion, it is most important to emphasise that the purpose of this research and writing is not to demonise Deakin, judge him or ascribe labels to him. Suffice to say he was an extremely complex man.

It is also important to say that Deakin’s role in the Half-caste Act has remained hidden for so long because that is exactly as he intended. He intended it never to be known. He disguised his hand in every way he could, shared his secret with no-one, not a political colleague, not a personal friend and least of all any of his family.

Further to this, it was perhaps most important of all for him to keep it disguised and hidden from the British Government. The Aboriginal Protection Society in London, formed in 1835, was concerned about the treatment of Indigenous populations in British Colonies throughout the Empire. Its members were quite influential and the Colonial Office was under pressure to scrutinise policy. Deakin was fully aware of this and, thinking ahead to the possibility of Federation, knew that his Vision of White Australia could be threatened if the Colonial Office or the British Parliament queried the treatment of Aboriginal people. To this end, the passing of laws similar to the Victorian Act of 1886 was essential in the other colonies and what became

the other states. Then it was essential that, in the planned federation, responsibility for Aboriginal matters remained with the states. Otherwise, new policies in Federal Law would come under extreme scrutiny and the British Government had the power to intervene directly or indirectly. Even when it came to the passing of the Immigration Restriction Act, the first Act passed in federal Parliament in 1901 by Deakin as Attorney General, it can be seen that Deakin knew it had to be done carefully to achieve its aim without attracting intervention by the British Government. But he did it skilfully.

In his private writings, which he had intended to destroy, he reveals much, including the belief that it was his Destiny to sacrifice himself for the greater good of his "race".

I believe Deakin wanted the future generations of White Australia to have a clear collective conscience. It was reported that, as Attorney General in the first federal Parliament in 1901, Deakin said it was his

"... earnest hope that the last hours of this slowly dying race might induce the knowledge that the aboriginals were being treated not only with justice but generosity".

This is shamelessly dishonest.

This was not the last of the many iterations of the mantra Deakin first uttered in the petition of 1882.

Later, in 1901, he wrote:

"In another century the probability is that Australia will be a White Continent with not a black or even a dark skin amongst its inhabitants. The aboriginal race has died out in the South and is dying out fast in the North and the West even where most gently treated".

And in 1905:

"The treatment of our aborigines by their white neighbours has varied in every district and with every phase of development. In this State [NSW] and to the south, their numbers were always small, and though occasional armed collisions occurred with the settlers, our records are on the whole respectable. For many years past, the States have dealt kindly with the remnants of the scanty tribes over which they have exercised guardianship... the race which everywhere except perhaps in Central and northern Australia is dying out fast from natural causes despite the efforts of State Governments."

These last two quotes were both published in the Morning Post newspaper in London. Deakin accepted a salary from the paper for over a decade from 1901, to write a weekly letter under a false identity, purportedly a correspondent from Sydney, even when he was actually Prime Minister and almost always in Melbourne. It is always claimed that he wrote anonymously, but claiming that he was in Sydney was a lie. In fact, the statements above are pure propaganda and like all propaganda they are full of lies. They are quite sickening in their self-righteous and blatant deception.

What matters above all is to present the evidence that the Stolen Generations did not come about by chance or were misguided but well-meant ideas, or happened through mismanagement of the policy by officials charged with its implementation. Those officials, the welfare and police officers, were the ones who were required to carry out the law, to remove children by force, who were instructed to tell the children it was for their own good, that it would give them a better life. They were the ones who substantiated it with horrendous lies. Not a few officials were themselves damaged by what they were forced to do, telling lies and wrenching children from caring, loving parents.

It is clear to me that the 1886 Act was very deliberately, meticulously and painstakingly drafted as a Bill, manipulated with stealth through parliament, breaching parliamentary convention at every point, and passed into Law with all its vital intent unaltered.

This research came about in answer to the question: where did the Stolen Generations begin and why? The last place I expected or could have wished to have found it was within my own family history. But very quickly I realised it had never been hidden in any private family history, it was in fact in the nation's history and all the evidence was in records and writing that have always been in the public domain. Why had it never been questioned?

There is a further question to be answered which is how did this policy remain in force for nearly a century? Why was it never questioned either for its obvious atrocity but even for the fact that there was emphatically no evidence to show that it was working, either in achieving the ultimate elimination of Aboriginal people or the false claim of making their lives better?

This collective denial is perhaps best illustrated by the hessian screens erected on the roadside ostensibly to hide the fringe-dweller camp on the flats beside the Goulburn River at Mooroopna when the young Queen Elizabeth passed by in 1954. Were the screens to hide the fringe-dwellers from the eyes of the Queen? Or were they to hide the truth from the eyes of White Australia?

I hope that by telling the truth now I can in some way offer something to the long process of recognising what has been done to First Peoples and restoring what they know has been taken from them by violence and dishonesty.

## Afterword

The writing above is a short version describing what has emerged before me over the last thirty-five years and the last six in particular. The first pieces of the puzzle were given to me in 1989 by Uncle Archie Roach, then a young man in a checked shirt and white jeans playing country music on his country at Port Fairy. When he sang "Took the Children Away", it disturbed everything I thought I knew. Soon after I bought his first vinyl album, Charcoal Lane.

When I next saw him, I had the thrill of singing in a group on stage with him and Aunty Ruby Hunter in Footscray. He had won an ARIA and was now fully embracing his First Nations identity. No more checked shirts. I saw him many more times over the years including in the great Black Arm Band, at book launches and at one of his very last gigs when we all knew we would not see him again. And along the way I had heard his story, then learned it in complete detail in "Tell Me Why", his life story. Archie was demanding to know "why was I taken from my loving, caring parents, brothers and sisters? Why was I told that they had all died in a fire? Why was I told it was to give me a better life? Why was I told these lies?" "Tell Me Why" was what I had been thinking ever since I first heard "Took the Children Away".

I now know the answer. I know that Archie's story goes all the way back to those fateful months in 1886, because he was stolen from his family fundamentally under the core principle of the "Half-Caste Act" which was still enforced in Victoria as I was growing up in prosperity and comfort in Melbourne.

I also learned that, when Archie walked from the Builders Arms to Charcoal Lane, he was walking the same streets that Deakin walked in his earliest years from his birthplace in George Street. I learned about Deakin's attempt to obliterate Framlingham, from where Archie was seized under Deakin's own legislation, never to see his father or mother again.

Archie's father died, I believe, as a consequence of grief brought about by the loss of his children, in custody in a cell at the Fitzroy Police station next door to the grand Fitzroy Courthouse whose foundation stone, engraved with gold lettering, declares that it was laid on 18<sup>th</sup> December 1888 by the Hon. Alfred Deakin.

But by the strength of Archie's family bonds and his culture, Archie survived.

His story told me all.