

Easy Money: the Australian tariff from 1915-1930.

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Abstract

Following World War I there was a burgeoning of protectionist sentiment and policy schemes in Australia. It was claimed that during this period that protection was more than a policy: “it was a faith and a dogma” which was supported by public opinion, private interests and the Commonwealth Treasury. It was period wrought by a steady increase in tariff rates on many imported goods including apparel and haberdashery lines. What is notable during this period in Australia’s economic history is that the tariff regime did not have ‘revenue-raising’ as its prime objective. Rather, it existed as a form of social engineering having its paramount aim in protecting nascent and established Australian manufacturing industries from overseas competition, by making foreign goods more expensive to purchase.

Protection of local manufacturing was encouraged by the dominant political parties and their strange bedfellows, the unions, as “an instrument capable of not only redistributing national income more equitable, but also of increasing Australia’s population of European settlers” in line with the White Australia Policy. However, in addition to buffering local industries from overseas competition, there other unexpected fiscal benefits which the politicians had not foreseen in their blinkered push for this unbridled protection in Australia. “The blessed doctrine of protection” contributed millions to the Federal Treasury. According the Brigden, tariff receipts was “easy money” which saved the Federal Government from the need to impose more direct forms of taxation to raise revenue to pay the costs of government.

The paper will explore some of those political and economic conditions existing before and after Federation which contributed to the transformation of the early Federal tariff into a predominantly protective instrument but which also, unexpectedly, contributed millions to the Federal Treasury.

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Introduction

The power to tax is the one great power upon which the whole national fabric is based. It is as necessary to the existence and prosperity of a nation as is the air he breathing to the natural man. It is not only the power to destroy, but the power to keep alive. ²

Australia’s earliest taxes were indirect and consumption-based. In fact, by the time of white colonization in Australia most other countries and colonies had taxation which tended to be indirect.³ This continued to be the case in Australia up until the mid-20⁰ century. In 1925 when Mills published the now iconic Taxation in Australia, indirect taxes such as customs and excise duties, which had their roots in Roman and Medieval English fiscal policy, provided the largest single item of revenue for the Commonwealth of Australia.⁴ Although Customs (portoria) existed at the time of ancient kings of Rome, it was during the reign of Augustus and his successors when the trade in riches and exotic mechanism from Syracuse, Carthage, Macedonia and Asia increased enormously, that customs and excise duties were then imposed on every kind of imported and exported goods. These same types of taxes were maintained in the British Isles after the Romans departed. Mills suggests that the introduction of this type of fiscal impost during the early stages in the history of maritime countries such as Australia is “a priori probable”⁵ because commonly it was the first form of taxation which was levied by a young community and it also reflected the need for royal or State protection in light of the real risks from piracy which importers and merchants faced with the transit of precious and rare merchandise.

So, from these early times it was commonplace for the English sovereign to impose import duties on luxuries including textiles such as lace, silk and scarlet and other dyed cloth, as well as export duties on items such as wool and leather. These duties were are various times called “Aliens Duty”, “Butlerage”, “Petty Custom”, “tolls” and maritime exactions referred specifically as ‘Prisage”, “the Maltolte” and “Ancient Custom.” The assessment of duty was mostly made in accordance with

² Quoted by Isaacs, J., in The King v Barger, CLR, 41
³ Woellner, Barkoczy, Murphy and Evans and Pinto, 2012 Australian Taxation Law (22nd edition, CCH, Sydney, 2012) 1-040-it is suggested by the authors that by 1755 such taxes provided 82% of total English revenue. It is also suggested that the reason why there was the lack of any real broad-based system of taxation was the lack of the administrative infrastructure and expertise necessary for the efficient control of this type of tax system.
⁴ Mills, S., Taxation in Australia (McMillan & Co, London, 1925) 3
⁵ Mills, S., above, note 4, at 5
weight and exacted at or before landing or shipment. During the thirteenth and fourteenth centuries inter-class struggles resulted in the alteration of trade-controls and trade-groupings when merchants consolidated into powerful trade organisations which then resulted in problems with social stratification and commercial leadership in England. Eventually, by the reign of Charles II the Crown recovered the control and administration of the Customs revenue but not without problems. Not only was the management and collection of Customs revenue subjected to “incredible abuses” but “The Statute Book was crammed with innumerable Acts relating to Customs, overlapping, chaotic, unintelligible.”

According to Mills, it is this jungle of legislation concerning the imposition and collection of Customs duties which became the basis of the tax system which was applicable at the time of the first white settlement in Australia.

Taxation in Australia before Federation

_Isolation begat provincialism, provincialism begat protection, and protection begat colonial envy, bitterness, and strife_

For many decades the colonies’ taxing policy was motivated by the need to raise revenue to supplement those often meagre funds which were provided by England to establish and maintain both a penal colony and a free settlement in a land which was not only isolated by vast distance from ‘the homeland’ but which also lacked any of those comforts and industries existing in England during this period. Taxes, in the form of customs (tariffs) and excise duties, were ostensibly raised by the colony’s administrators to supplement the official stipend which was aimed at mere subsistence husbandry. It was expected that this stipend would continue to be provided by the British

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6 Mills, S., above, note 4, at 10
7 Mills, s., above, note 4, at 10-acording to Mills there were 1,300 laws of Customs passed between the first and fifty-third years of the reign of George III.
8 Allin C.D., _A History of the Tariff Relations of the Australian Colonies_ (Bulletin of the University of Minnesota, 1918)171
Government until such times as each colony, with its cheap prison labour, could ‘keep itself’. During the transportation period the British government provided food and clothing for most of the convicts, their guards, some civilians and Aborigines. Up until 1824 public expenses for the Colony of New South Wales, “which consisted chiefly of expenditure connected with the support and management of British convicts” were borne almost entirely by the “Imperial Government.”

According to Maynard, this form of paternalism, where the Imperial Government was the universal provider, created a widespread dependency which discouraged local enterprise and fostered strong reliance on cheap ready-made imported clothing and accessories. The social and economic maternal bonds and associations with Britain—nostalgically referred to as ‘Home’ or ‘the Mother Country’—and the indefatigable crossing and recrossing of the oceans from one hemisphere to another in the transportation of convicts, government officials, free settlers and merchandise ensured that there was a constant flow of imported goods including clothing and exported materials such as wool, which would attract fiscal imposts. It was also not long before there was also a vigorous private trade in low-cost clothing with British colonies such as India which not only supplemented the supply of British made clothing but also substantially increased customs duties which added to the colonies’ coffers.

However, the collection practices and value of these taxes were nothing more than an ad hoc exercise during a period when the Colonies’ administrators had to deal with many exigencies: an uncertain economy, a disinterested British government, unrest and dissatisfaction of prisoners and settlers, the irregularity of shipments and the lack of local industries and businesses. So did this method of tax collection really matter in the newly populated colonies? Harris suggests that the answer is ‘no’ as the Colonies “did not have a great need for revenue during the first half of the 19th Century.” Many of the costs of transportations and the establishment and running of the penal settlements was borne during this period by the Imperial Governments, by the raising of funds from the London markets and through the sale of public land to free settlers. Yet, this ad hoc revenue raised in the colonies via indirect taxation not only helped fill some of the gaps not covered by these fiscal procedures but it also became the foundation stone upon which the colonial tax regime and later the early Federal tax systems were built.

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9 Hancock, W.K. *Australia* (Ernest Benn, Limited London, 1930) 11
11 Mills, S., above, note 4, at 26
12 Maynard, M., above, note 10, at 27
13 Maynard, M., above, note 10, at 27
14 Harris, P., *Metamorphosis of the Australian Income Tax: 1866 to 1922* (Australian Research Foundation, Research Study No. 37, 2002) 201
Under an Imperial Act passed in 1819, the British Parliament legalised the collection of duties and the New South Wales Governor was thus authorised to impose customs duties of 10 shillings per gallon upon British spirits or British West Indian rum shipped from Britain; of 15 shillings upon foreign spirits; 4 shillings per pound on tobacco and 15 per centum *ad valorem* duties upon non-British manufactures and upon the importation of all goods, wares and merchandise not being the growth, produce, or manufacture of the United Kingdom.\(^{15}\) The first steps for the establishment of representative government were made with the passing of a British Act in 1823 and whilst the legislators envisaged a colonial constitution and court system for New South Wales and Van Diemen’s Land, they did not however expand the colonial taxing powers.

The colonial parliaments could only levy taxes or duties “as it may be necessary to levy for local purposes.”\(^{16}\) Notwithstanding these limitations, the revenue raised by import duties increased from £28,763 in 1824 to £195,080 in 1840. By 1850, the European population in the colonies was less than half a million\(^{17}\) and most of the tradeable goods were connected with primary production, whilst most manufactured articles, including clothing, were imported in the main from Britain. Even though the population in the colonies had not increased substantially there was a very noticeable increase in such imported clothing and other domestic goods. For example, in New South Wales, the total amount of imported British-made clothing more than quadrupled between 1848 and 1853.\(^{18}\) There was also an enormous spike in the demand for imported clothing during the gold-rush period when “a rising population of prosperous consumers”\(^{19}\) could spend their newly found wealth on all sorts of imported luxurious and superior ready-made fashion apparel.

Colonial tariff policies continued to be controlled by ‘the Mother Country’ until self-government was granted to five of the six Australian colonies between 1855 and 1859.\(^{20}\) From then on, and in a relatively short period, these colonies, albeit in different degrees, began to achieve some economic and political independence. By the end of the nineteenth century each of the six colonies had distinct tax systems, which were almost entirely reliant on customs and excise duties. Not only did Customs duties or tariffs underpin the newly emerging colonial economies, but they also acted as barriers against overseas imported goods as well as effective as trade barriers between the

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\(^{15}\) Mills, S., above, note 4, at 29  
\(^{16}\) Mills, S., above, note 4, at 31  
\(^{18}\) Maynard, M., above, note 10, at 122  
\(^{19}\) Maynard, M., above, note 10 at 122  
\(^{20}\) Anderson and Garnaut, above, note 17, at 40
colonies. According to Reinhardt and Steel, one of the “significant results of Federation in 1901” was the removal of all duties on goods traded between Australia states.

From the time the Australian colonies were settled there existed between the colonies a high degree of economic and political tension and competition. Allin considered the history of the tariff relations between these colonies as “a sorry record of inter-colonial jealousy and strife.” One of the burning political issues in the colonies before Federation was the fact that each of the colonies raised revenue by not only imposing taxes on overseas imports but also on inter-colonial traded goods. It was their most “elastic and most important source of revenue.” According to Hancock the colonies, with their pre-federation rivalries had “scattered Customs houses along their land frontiers.” However, as Dr Julie Smith suggests, the great difficulty of the fifteen years or so before Federation was “in working out exactly what would be the fair way (sic) and sustainable way” to return revenue to the States. The formation of the Commonwealth thus meant that the Federal government could not only restrict the entry of aliens, who were considered a terrible risk to ‘the white Australian way of life’ but it alone could tax the entry of goods.

Despite the passing of the Australian Colonies Government Act (1850), which “marked the emancipation of the colonies from the bondage of Downing Street,” the colonies were slow in taking on national status. Not only were they “small, isolated communities in the pioneer stage of social and political organization” but each colony was oblivious to what was going on in “the contiguous but far distant communities.” Each colony was focused on the development of its own resources and to the furtherance of their own immediate political and economic interests. Their efforts were without the support of the British parliament which only took a spasmodic interest in the affairs of the distant colonies and it seems the colonial office was “to ill-informed to be able to supervise the policy of administration of the struggling settlements.”

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21 Reinhardt, S and Steel, L., A brief history of Australia’s tax system (paper presented to 22nd APEC Finance Minters’ Technical Working Group, Vietnam, 2006) 2  
22 Reinhardt, above, note 21, at 2  
23 Section 92 of the Constitution – free trade between states  
24 Allin, C.D., above, note 8, at 1  
26 Hancock W.K. Australia (Ernest Benn, London, 1930) 76  
28 Hancock, W.K., above, note 26, at 77  
29 Allin, C.D., above, note 8, at 1  
30 Allin, C.D., above, note 8, at 1  
31 Allin, C.D., above, note 8, at 5
As the colonies became more economically self-reliant and idiosyncratic in their economic ideologies they also began to develop even more divergent, social, political and economic policies and rivalries. For instance, the two major colonies, Victoria and New South Wales, had, for various reasons, adopted radically different commercial and revenue policies. New South Wales had a steadfast adherence to Free Trade which was largely supported by the sale of public land, whilst Victoria and other colonies exhibited a “doctrinal fervour” for the theory of Protection. Whilst New South Wales’s consistent adherence to Free Trade was largely motivated by Sir Henry Parkes, who, according to Mills, “for a long period was the most striking figure” in Australia’s political life, Victoria’s obsessive stance on Protection, which resulted in very high tariffs, was fuelled by “the continuous and passionate advocacy” of the proprietor of the Melbourne morning journal who exercised a powerful influence over local politics.

All these factors prompted, as between the colonies, the creation of contrary interests and conflicting fiscal legislation. Each colony framed its taxing legislation with an aim to foster its own particular economic and social needs and with little regard to the interests of the other colonies. This meant that each colony adopted “the easiest and readiest means of taxation without regard to economic principles.” Consequently, this individualistic type of economic and financial policy throughout the colonies laid the groundwork for economic discrimination in the form of a variety of inter-colonial differential and preferential tariffs.

The early colonial duties were “nearly always mainly for purposes of revenue” and whilst protective motives were not always absent, Reitsma argues that it would go too far to say that the infant colonies had established any commercial policy at all. By the latter part of the 1800’s this position had obviously changed substantially, for in 1883, Richard Twopeny, whilst visiting the colonies, makes the observation that “[p]rotectionist duties and heavy freights form an effectual sumptuary tax” resulting in “first-class articles” being “heavily handicapped” and “a premium put upon the importation of shoddy.”

32 Harris, P., above, note 14, at 166
33 Mills, S., above, note 4, at 201
34 Mills, S., above, note 4, at 202- Mills argues that the “phenomenon of Free Trade in one Colony among six, five of which had adopted Protection as their fiscal policy...is not readily explained.” He asserts that one cause of this phenomenon is that “the spirit of Free trade was incarnate in the person of Sir Henry Parkes.”
35 Mills, S., above, note 4, at 202
36 David Syme-Mills says that he was “a man of strongly marked personality”
37 Allin, C.D., above, note 8, at 5
38 Reitsma, A.J., Trade Protection in Australia (University of Queensland Press, Brisbane, 1960) 1
39 Reitsma, A.J., above, note 38, at 5
40 Twopeny, R., Town Life in Australia (Penguin Colonial Facsimiles, 1983) 110
The first protectionist tariff introduced in the colonies was presented to the Victorian Assembly in 1865 with the objective of protecting new industries and overcoming the problem of expensive, but poorly made imported goods being dumped on the Victorian market. Even though protection had a popular following in Victoria, other colonies such as New South Wales embraced free trade which “fitted in with pastoral and financial opinion.”*41* These diverging policies contributed significantly to “the inter-colonial custom troubles that characterized the period”*42* and the often difficult debates plaguing the introduction of Federation.

Although, as previously mentioned, each colony initially framed their tariffs primarily for revenue purposes, gradually these protective features became more pronounced.*43* Despite enormous protests from their ‘sister colonies’ about the “growing evil of inter-colonial duties”*44* and the passing of hostile, retaliating or ‘tit-for-tat’ legislation, each colony went on its merry way in exacting, often complicated, inter-colonial duties as a ‘necessary’ measure for the protection of their local industries. The result, according to Allin, was a “strange melange of tariff anomalies” which completely ignored the “general welfare of the Australian group and the empire.”*45*

It would be many decades and much political lobbying and vitriolic debates before Federation finally settled the question of inter-colonial tariffs. During this pre-Federation period, federalists faced the “the narrow-minded materialism of [isolated and] primitive communities”*46* which were immersed in the practical problems of their own colony’s development and whose patriotism was manifestly selfish and provincial and whose legislatures had inherited a tradition of inter-colonial jealousy.*47* All federal proposals were looked upon with suspicion “as involving a possible limitation of local autonomy or a malevolent design against the welfare”*48* of their own colony. Debates about federation invariably lead to a heated controversy which was played out in the media and colonial parliaments over the question as to which colony would get the better deal under Federation.

Allin suggests that much of the political instability which existed in the latter part of the nineteenth century was due to the failure of Australian politics to develop strong party organizations “with a body of distinct political traditions.”*49* He also argues that political parties existed in name rather than in principle and the legislature of each colony was focused solely on the struggle of competing

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41 Reitsma, A.J., above, note 38, at 9
42 Reitsma, A.J., above, note 38, at 10
43 Allin, C.D., above, note 8, at 10
44 Allin, C.D., above, note 8, at 11
45 Allin, C.D., above, note 8, at 13
46 Allin, C.D., above, note 8, at 167
47 Allin, C.D., above, note 8, at 166
48 Allin, C.D., above, note 8, at 168
49 Allin, C.D., above, note 8, at 169
groups of economic interests, during which, personal rivalries and economic antagonisms were rife. He states emphatically, but without further explanation, that “[b]usiness and religion were the touchstones of political life.”

Each government considered that its primary duty was to protect and promote the interests of its own citizens and questions of inter-colonial concern or common interest of the colonies were usually dismissed as insignificant or closely scrutinised to determine what bearing they might have for that individual colony.

It has also been argued that the very isolation of the colonies engendered the spirit of provincialism. Not only were the colonies cut off from the outside world by “both time and space”, they had no external relations and no more than a passive interest in what was happening in Europe for they “lived in a little world of their own, a world with a distinct set of interests and problems from those of Europe or America.” Even their relationships with other colonies were strained and far from intimate. Because the Australian land mass was huge there was great distance between settlements, with little interconnecting transport systems. The tariff, more than any other issue, “aroused the latent spirit of provincialism in all the colonies... [i]t was ‘the lion in the path’ of all federal measures” and it was the major cause which contributed to the failure of imperial and colonial governments in their attempts to improve the political and economic relations of the colonies.

There was no unity of taxing policy between the various colonies until Federation when the Federal Parliament occupied the dominant position in Australian politics. Taxation policy had always been at the centre of the pre-Federation debates and the colonies were concerned that Federation would mean they would lose their major tax base when they were no longer able to impose tariffs on imported goods. The Constitution was designed to give the Federal Government the sole authority to impose customs and excise duties. However, the colonies were placated to some extent by drafters of the Constitution allowing the States to maintain their taxing powers in relation to other taxes such as income tax.

According to Hancock, the creation of the Commonwealth was, to many people at the time, the only way the Australian democracy could survive. It provided a two ring-fence, or cordon sanitaire, of immigration restriction and fiscal protection. Deakin, concerned about social and external

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50 Allin, C.D. above, note 8, at 169
51 Allin, C.D., above, note 8, at 167
52 Allin, C.D., above, note 8, at 167
53 Allin, C.D., above, note 8, at 170
54 Smith, J Taxing Popularity: The Story of Taxation in Australia( Federalism Research Centre, Canberra 1993)
55 Hancock, W.K., above, note 26, at 77
pressures, insisted that “the unity of Australia...implies a people possessing the same general cast of character, tone of thought, the same constitutional training and traditions.” The States, on the other hand, perceived the Commonwealth just as a mechanism created by them to do what they, the States, wanted it to do and nothing more in relation to taxation. The Commonwealth was created, as far as they were concerned, to run a uniform tariff system and to take care of Defence and Foreign Affairs. However, Smith suggests that the States did not realise that “the creature would actually grow bigger than that, and start to dictate the terms on which it returned the money to them.”

Yet this continuing political opportunism which played out in the colonial legislatures overshadowed for some time the plea of federalists who wanted to reconcile the fiscal differences of the colonies by the assimilation of tariffs by the creation of a federal tariff. However, on 8 October 1901 the first Federal tariff was introduced and effectively ended inter-colonial tariff wars. It was a compromise between the revenue tariff of NSW and the protectionist tariffs of Victoria. Since that time, and despite the continuing tensions between advocates of free trade and protectionists, particularly during the 1920’s and 1930’s, the Commonwealth of Australia has had a “rich history of experimentation with trade protection.” During the period from the 1880’s through to the 1930’s Australian manufacturers and primary producers faced heavy competition from the massive increase in all forms of imported goods from Britain and Europe. The early twenties saw in Australia great surges in imported cheap end-of-season clothing lines mainly from British manufacturers which were actively resisted by a strongly supported domestic policy of protecting “industries born during the war, of encouraging others that were desirable and of diversifying existing industries.”

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56 Quoted in Hancock, W.K., above, note 26, at 79
57 Smith & Warren, above, note 27, at 3
60 Athukorala, above, note 58, at 4
61 Reitsma, A.J., above, note 38, at 22
Federation— the first remarkable moment in Australia’s taxation history

But the day of small things was passing away. A new Spirit of Australian nationalism was beginning to find lodgement in the hearts of the younger generation. New imperial problems come upon the scene. The political and economic life of the colonies gradually loses its purely local significance and begins to take on a true national character.  

The Commonwealth’s taxing power is contained mainly in s 51(ii) of the Australian Constitution and it gives the Federal Government a general and unlimited power to raise taxes for the peace, order and good Government of the Commonwealth. Section 90 of the Constitution provides very clear power to the Federal Government to impose indirect taxation. At the time of Federation, approximately 75% of colonial revenues came from customs and excise duties. So, Section 90 not only removed certain taxing powers from the colonies but it provided the Federal government with the exclusive power to set and impose Customs and Excise duties. At first, the scheme of finance of the Commonwealth was according to Mills, almost wholly based “on the revenues to be derived from Customs and Excise duties” and Section 88 of the Constitution required that “uniform duties shall be imposed within two years after the establishment of the Commonwealth.”

Whilst the Commonwealth would take control of the collection and administration of these duties under Section 86 of the Constitution, the State tariffs remained temporarily in operation. For at least ten years after Federation the Commonwealth had to, in accordance with Section 87, return to the States “three-fourths of the net revenue from Customs and Excise, one-fourth only being available for Commonwealth expenditure.” Not only was “the paramount object of Federation” inter-State free trade with a uniform Tariff in the importation of overseas goods but the preparation of a Tariff became the “most urgent task of the new Commonwealth Government.”

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62 Allin, C.D., above, note 8, at 171
63 According to s 51(ii), the [Commonwealth] Parliament shall... have power to make laws with respect to... (ii) taxation; but not so as to discriminate between States or parts of States.”
64 Smith, J., above, note 54, at 60. Most of this revenue came from customs duty.
65 Mills, S., above, note 4, at 200
66 Mills, S., above, note 4, at 201
67 Mills, S., above, note 4, at 201
Ironically, the revenue raised by these duties was to be far more income than the Federal Government required at the time and so, it was proposed by ‘the founding fathers’ that most of this revenue would be returned to the States. However, there remained the problem of how the revenue would be divided between the States and how each State would cope financially with these allocated funds \textsuperscript{68} in addition to the funds which they could generate in accordance with their remaining taxing powers. It was hoped that ‘their access to direct taxation gave them considerable financial flexibility.’ \textsuperscript{69} Despite these potential problems, the ‘founding fathers’ decided that they were not insurmountable and that this exclusive legislative power was an essential step in the creation and maintenance of free trade areas throughout the Commonwealth and in the establishment of uniformity in bounties and customs and excise duties.

The use of customs and excise duties, as the Commonwealth’s main source of revenue, proved to be a very lucrative \textsuperscript{70} means of raising revenue. At the same time, such taxes also fitted in neatly with the growing nationalism which spread throughout the colonies and later the Commonwealth. Not only were these taxes easy to exact but they could be readily utilised to protect the interests of those local manufacturers, industrialists and farmers whose wealth and reputation were considered could be endangered by Free Trade policy which allegedly encouraged the proliferation of cheap imported goods and the ‘dumping’ of ‘end of season’ clothing by an “outside world which struggled for profit and cared nothing for Australia’s adventurous quest for justice.” \textsuperscript{71} In the early years after Federation Trade Unionists, who had at first held the balance between Free Traders and Protectionists by playing what Hancock calls “the profitable game of support of ‘support in return for concessions’”, began to drift towards the Protectionist side which pandered to their fear that “the competitive strength of frugal Orientals” \textsuperscript{72} might result in lower wages and conditions for Australian workers.

It was inevitable that the Australian Tariff would be of the Protectionist type \textsuperscript{73} but the question would be how much money was needed and how it was proposed to raise it. Sir George Turner in the first Commonwealth Budget speech states that “neither the Free trader nor the Protectionist can have his own way entirely. The Tariff is a compromise Tariff.” The objects of the new Tariff were manifold. Not only did policy makers such as Turner argue that the Tariff be framed to raise revenue to fund the Commonwealth obligations to the States to maintain their solvency as well as cover

\textsuperscript{68} Smith, J., above, note 54, at 40
\textsuperscript{69} Smith, J., above, note 54, at 41
\textsuperscript{70} In 1901-1902 The Commonwealth’s total revenue £18 million was derived from Customs and Excise Duties
\textsuperscript{71} Hancock, W.K., above, note 26, at 83
\textsuperscript{72} Hancock, W.K., above, note 26, at 83
\textsuperscript{73} Mills, S., above, note 4, at 201
Federal expenditure but it was to keep faith with the States by providing “for moderate protection, particularly avoiding unnecessary destruction of existing industries whose magnitude and suitability rendered them worthy of fiscal protection.”

However, this ‘compromise tariff’ failed to please all stakeholders, mainly because it was not a compromise between Free Traders and Protectionists but rather only a compromise between what Mills calls “the high” and “moderate” Protectionists and there was no Compromise Cabinet. From the beginning of Federation, the Commonwealth fiscal policy had been unmistakably Protectionist, and every subsequent dealing with the Tariff ... affirmed that policy, with a deeper emphasis each time.” Mills contended that whilst this “fiscal creed” was the prevalent fiscal policy in the early days after Federations it did not have “the mental assent of all the Australian people.” According to him “[t]he British race is far too individualistic for public opinion to be reduced to such an ashen monotony. Free Traders cannot yet be catalogued among the extinct fauna of Australia, and there are all shades of intensity in the colour-card of Protectionist opinion.”

Not only was there continued resistance against protection generally but there was an ongoing contentious dialogue between various stakeholders about the issue of preferential tariffs. In August 1906, Deakin’s colleague, Sir William Lyne, then Minister for Trade and Customs proposed a Tariff resolution concerning approximately thirty British products, with a view to giving Great Britain or “the Mother Country” favourable or preferential treatment as against similar products from other parts of the world. The proposal was to leave the tariff untouched for these British goods and to increase by ten per cent the duties against all other countries. This favourable treatment was conditional upon the goods being produced or manufactured solely in the United Kingdom and they should be imported direct in British ships. As a result of hostile criticism from the Free Traders and the problems relating to the demand for amendment to the tariff Bill by those who wanted the Bill to contain even stricter racially- based conditions to be placed on these favourably-treated British goods, the British Preference was postponed.

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74 Sir George Turner
75 Mills, S., above, note 4, at 210
76 Mills, S., above, note 4, at 221
77 Mills, S., above, note 4, at 221-222 cf Brigden see note 154
78 Mills, S., above, note 4, at 221-222
79 Also referred to as “the old country”
80 Mills, S., above, note 4, at 212
81 Mostly seeking that the British ships bringing in the imported goods should be “manned exclusively by British seaman”, “manned by 80 per cent white seamen”, “manned exclusively by white seamen” or the goods “must be manufactured by white labour” (Mills 214)
The New Protection - 1905-1908

The old protection contented itself with making good wages possible. The new protection seeks to make them actual.  

Between 1905 and 1908 The New Protection permeated Commonwealth legislation in the form of various Acts of Parliament, such as the Customs Tariff Act 1906 and the Excise Tariff Act 1906, which encouraged certain industries “contingent upon fair and reasonable wages being paid.” Deakin, an ardent protectionist, actively promoted this ‘New Protection’ to all by linking tariff protection to the workingman’s wages. This ‘new’ Protection accorded to the manufacturer “that degree of exemption from unfair outside competition which will enable him to pay fair and reasonable wages without impairing the maintenance and extension of his industry, or its capacity to supply the local market.” The question of what were ‘fair and reasonable wages’ was to be decided by a Board of Trade and once done, the Board would be in position to determine with some degree of precision the question whether the measure of protection given to a particular industry was sufficient to pay those wages. At the same time, the government declared its intention to also protect the consumer against the charging of unduly high prices.

According to Reitsma, this ‘New Protection’ was such an attractive wage policy that it “caused the complete conversion of Labor to trade protection.” This conversion helps to explain Labor’s stance on protection which we see later in the Tariff Board’s Apparel Hearings in 1925. The Labor Party’s newly found belief in protection, which was rapidly growing in political importance, also sets the scene for its co-operation with the Deakinites in passing the 1907-1908 tariffs which were far in

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83 This is the term of the second Deakin Ministry.
84 Relating to bounties, customs, excise and manufacture.
85 Reitsma, A.J., above, note 38, at 18
87 Reitsma, A.J., above, note 38, at 17
88 Reitsma, A.j., above, note 38, at 17-18
89 This tariff called the Lyne-tariff included over 440 articles with rates nearly double those fixed in 1902.
excess of the 1902 tariff. This new tariff contained much higher duties on woollen goods and was “the first really protectionist tariff”\textsuperscript{90} which also provided for preferential treatment of the United Kingdom. However, its glory was short lived: in 1907, the \textit{Excise Tariff Act} 1906 was challenged as being unconstitutional and the High Court declared it to be unconstitutional. The positive off-shoot for those who were enamoured with New Protection is that Justice Higgins in the Arbitration Court developed the principle of the basic wage, with margins for skill, as a direct result of this New Protection issue.\textsuperscript{91}

In 1911 and 1914, tariff duties were further increased. In August 1913, an Inter-State Commission was appointed which had functions very similar to those which we see later attached to the Tariff Board pursuant to the \textit{Tariff Board Act} 1921; the only difference is that the Commission’s recommendations had been based on pre-war ‘normal’ circumstances which became irrelevant in the greatly changed post war situation. Not only did the Commission have the power to investigate any industries in urgent need of tariff assistance but it also had the power, which it did not ever exercise, to scrutinize the “lessening, where consistent with the general policy of the Tariff Acts, of the cost of the ordinary necessities of life, without injury to the workers engaged in any useful industry.”\textsuperscript{92} Shann suggests \textsuperscript{93} that the instigation of this Commission resulted from the natural anxiety of a government having committed itself to protection that industry would then take advantage of the consumer and that the lack of competition would result in inefficiencies. However, Reitsma\textsuperscript{94} argues that this Commission exerted little influence on tariff making.

\textbf{Australia conversion to uniform Protectionism-taxation was not just about raising revenue}

\textit{Consumers have always been a weak countervailing force against protection because of the free rider problem of collective action}\textsuperscript{95}.

\begin{flushright}
\textsuperscript{90} Reitsma, A.J., above, note 38, at 18
\textsuperscript{91} Reitsma, A.J., above, note 38, at 18
\textsuperscript{92} Reitsma, A.J., above, note 38, at 19
\textsuperscript{93} Shann, E.O., \textit{An Economic History of Australia} (Cambridge University Press, Sydney, 1948) 409
\textsuperscript{94} Reitsma, A.J., above, note 38, at 27
\textsuperscript{95} Anderson and Garnaut, above, note 17, at 117
\end{flushright}
By the end of the first decade after Federation, party politics had begun to take a more uniform approach to protectionism. This can be explained to some extent by the national response to the sudden large increases or surges in import penetration. It has been suggested that generally, such increases or surges are more likely to trigger a protectionist response than would more gradual increases.\textsuperscript{96} This triggering of a protectionist response is often more likely if the domestic industry is declining but has a well-established lobbying organisation. At this time the Free Trade Party gave up its commercial policy and aligned itself with the Protection Party in an anti-Labor coalition; whist the Labor Party also adopted a pro-protection stance. After World War I the newly formed Country Party declared its support of protection in many areas.\textsuperscript{97} Anderson and Garnaut suggest that this consensus towards protectionism “allowed protectionism to be strengthened or at least maintained for half a century.”\textsuperscript{98}

Anderson and Garnaut also suggest that there were four main reasons why after Federation Australia became uniformly Protectionist. Firstly, they argue there was a strong legacy of protection in Victoria and considerable protection in the less populated states such as South Australia and Tasmania and which had created numerous vested interests which wanted to maintain the protection which they had enjoyed up until Federation. These recognized interest groups wanted to avoid the type of free trade policies which New South Wales espoused and so ensured that they vamped up their demand for a continuation of this protection.

Secondly, the Constitution provided that for the first ten years of federation that three quarters of federal revenue, raised by the imposition of customs and excise duties, would be returned to the States. To this extent the imposition of high import duties made it uncomplicated to introduce incidental protective effects into the current tariff regime. The third consideration Anderson and Garnaut suggest\textsuperscript{99} which explains why protection became a widespread dogma is the exercise of ‘nation-building’ required economic/political compromises between the States/Colonies. The compromise which was eventually nutted out lay between the high level of protection provided in Victoria and the free trade policies followed in New South Wales. In addition, the allowance in the Constitution for free trade between the States ameliorated the angst of many of those who supported universal free trade.

\textsuperscript{96} Anderson and Garnaut, above, note 17, at 117
\textsuperscript{97} Anderson and Garnaut, above, note 17, at 43
\textsuperscript{98} Anderson and Garnaut, above, note 17, at 44
\textsuperscript{99} Anderson and Garnaut, above, note 17, at 46
Anderson and Garnaut argue that it was the fourth consideration which was decisive in allaying those fears that the Free Traders were still under a disadvantage with a Federal Government which promoted protectionism. Those who lead the protectionist movement in Victoria turned out to be more skilful in ‘wooing’ the support of the Labor Party by encouraging Labor in their push to use government intervention in the form of the Budget to put into place policies which would effect a redistribution of income towards wage earners. The protectionist leaders made efforts to procure Labor’s support by developing the concept of ‘New Protection’ which envisaged that protection would walk ‘hand-in-hand’ with employers in protected industries which, to avail themselves of the enormous benefits of protection policies, had to provide superior conditions of employment, including higher wages to their employees.

This alliance proved to be an ingenious tool which allied hitherto political foes who had had diametrically opposed views on the benefits of protectionism as a fiscal or economic policy. Until 1906, when New Protection was given legislative force, the Labor Party members in New South Wales and other states repeatedly claimed that protection was only favourable to manufacturers in increasing their profits and that the burden of protection fell disproportionately on workers whose expenditure was in the main concentrated on mass consumption goods. The Labor Party also argued before 1906 that the only way that workers could have improved working conditions and higher wages which were needed by these workers and their families to face a significantly higher cost of living was for the Federal Government to implement budgetary measures to effect a means of financial redistribution. This argument seems to have dispelled the concerns of the Labor members and the Labor Party then effectively resolved its own divided position to become more united behind protection. At this time the Free Trade Party was taking a beating and was defeated decisively in the 1906 elections: the same year in which the New Protection legislation was passed. The first significant protective tariff, the Lyne Tariff was introduced in 1907-08.

Anderson and Garnaut also maintain that to understand why protection was favoured over more ‘more efficient instruments’ such as direct taxation during the early years after Federation and why government “in a wealthy, resource-rich country like Australia might be willing to provide protection to import-competing manufacturers” one should draw on the private interest theories of policy formation which assume that individuals are utility maximisers and act in their own interests. There are two categories of public interest theories. The first are concerned with economic arguments relating to the level of the national income and its growth. The second category is non-economic and

100 Anderson and Garnaut, above, note 17, at 47
101 Anderson and Garnaut, above, note 17, at 35
102 Anderson and Garnaut, above, note 17, at 39
concerned with public goals such as the protection of income, employments and the creation of a more self-sufficient economy than would exist under free trade conditions.

Not only do governments fashion their policy decisions concerning protection as a direct response to individual members of the electorate who seek to either protect or advance their own pecuniary interests but at times these individuals can, according to Anderson and Garnaut, exert more influence on policy by forming groups. These vested interest groups “play an important role in democracy by supplying politicians with policy proposals...information on the extent of their members’ support for various policies, and with campaign contributions”103 as well as generate propaganda with which they can exert influence on the media and voters.

Interest group theory suggests that the demand for protection is more likely to be stronger in an industry which is more labour-intensive such as the clothing industry; where there is more lobbying support it has from associated industries supplying its inputs and from state government; the more the industry is declining and the greater share of imports in the domestic sales of its products.104 It was not an uncommon economic stance in the early twentieth century, in newly emerging economies such as Australia, to argue that protection was necessary to stimulate new manufacturing and that those entrepreneurs who risked their capital during the early years before an industry was fully viable should have the support of the government. This position was accepted uniformly by the ruling class throughout Australia as a desirable incentive for Australian industry to contribute to the growth of the economy and nation-building as a whole.

In addition, the unions had been convinced by the Labor Party’s contentions that protection had real advantages for the distribution of national income with raised wages and better working conditions for those workers employed in protected industries and could potentially be very attractive for white skilled European immigrants105. It was argued by the supporters of protection in the import-competing manufacturing sector that this was advantageous to all Australians, for not only did protection that raise the demand for labour but it supported greater employment and a higher real wage, especially in industries facing increasing import competition. This in turn was good for the establishment of a strong national and self-sufficient economic identity.

It has been suggested106 that there is a direct correlation between how political parties are funded and the pressures for protection. If any industry is allowed to decline, then that industry will

103 Anderson and Garnaut, above, note 17, at 36
104 Anderson and Garnaut, above, note 17, at 39
105 Anderson and Garnaut, above, note 17, at 30
106 Anderson and Garnaut, above, note 17, at 37
decrease its campaign contributions to the government parties. Yet, if that industry is exhibiting strong signs of growth then it is not necessarily going to increase its political contributions especially if its growth is independent of government policies. Anderson and Garnaut argue that when there is an increase campaign contributions, the government “will be tempted to assist at least those declining industries that are significant supporters of the party.” Those industries which have not significantly supported the government or have no widespread political influence will be left to decline. Interest groups who actively seek protection want government to continuously regulate the size of the import-competing industries by increasing protection steadily over time even if increases in tariffs and import quotas result in an “ever-greater cost to the public and with ever-greater benefit to the owners of the resources specific to the industry.”

However, the use of the private and public interest theory does not completely explain Australia’s protection policy because it seems that “their relative importance in protection policy-making is difficult to assess because of their simultaneous and complex interactions.” It cannot denied, however, that there has been a great effect on public or national interest as regards the average level of protection and that private vested interest groups have been instrumental in influencing the perception of the public interest in protection. During the early decades after Federation, governments generally considered that it was in the national interest to raise the share of manufacturing in national input and that protection enabled employers in protected industries to raise real wages and improve working conditions for their workers. This was position was seen by the unions and a large section of the general public as the most appropriate fiscal policy which could provide a more equal distribution of national income and which could attract European migration. It was not until the second part of the 1920s that this policy of protection began to be criticised and reconsidered.

The Government ‘turns its eye’ to direct Taxation for raising revenue

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107 Anderson and Garnaut, above, note 17, at 38
108 Anderson and Garnaut, above, note 17, at 38
109 Anderson and Garnaut, above, note 17, at 115
The powers of the Commonwealth in respect of Direct Taxation are unrestricted... For ten years, however these powers lay dormant. No revenue needs called for their exercise, and the period of social and political experimentation by their aid had not yet come. But it was not far off.  

The Federal Parliament was slow in exercising the full range of its taxing powers. It was not until the second decade after Federation that income tax was levied by the Federal Parliament. The Parliament had no real need to levy income tax, when it was still being levied by the States and it had been well placed financially with its monopoly on the profitable customs and excise duties which were, according to Sawer, “a prolific and painless source of government revenue.” Whilst Commonwealth income tax was adopted in 1915, “allegedly” as a war time fiscal measure, it was according to Krever partly was in response to intense lobbying by the rural sector for income taxation of “profiteering manufacturers”: especially by those disgruntled farmers who supported succession from the new nation. Several of the colonies had moved out of indirect taxes such as customs and excise duties and had already levied income taxes in the 1880s and 1890s.

These income taxes remained in place after Federation when “the colonies-transformed-to-states were granted the constitutional power to share the income tax base with the newly formed Commonwealth government.” However, the Commonwealth has not legislated for income tax until 1915, when Australia was gripped by an economic crisis, because according to Smith “there was in general an understanding that income taxes were only something you did in an emergency,” such as in times of war. The necessities of the Great War and the need to cover the 1914-1915 large Federal expenditure deficits and enormous borrowings propelled the Federal Government into taking urgent action in the passing of the income tax legislation which aimed at targeting surplus wealth which would not impact productivity but rather would only affect “the margin available for luxuries.” It was not the first direct tax introduced by the Commonwealth Government: a land tax was introduced in 1910 and it “cast the dye for income tax.” Harris suggests that a desire to

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110 Mills, S., above, note 4, at 232  
113 Krever, R., above, note 112, at 2  
114 Krever, R., above, note 112, at 2  
115 Smith and Warren, above, note 27, at 3  
117 Harris, P., above, note 14, at 176
increase immigration was an additional reason why the Commonwealth “turned its eye” to direct taxation in the form of a land tax. It was hoped that such a progressive land tax would fragment larger estates and make land available for immigrants, and so make Australia a more desirable place to settle. It proved a popular issue in the 1910 Federal elections and was considered by many “as a weapon in a class battle” but according to Harris it was only “the first round in the Commonwealth’s move into the field of direct taxation.”

Income taxation was not perceived by the public or the government as a good thing—it was generally a sign that the government was in trouble. This reluctance to levy Federal income tax for the first decade and a half of the new Commonwealth meant that the States were free to continue to impose State income taxes when they needed more revenue than what the Commonwealth was providing to them. With the introduction of Commonwealth income tax legislation in 1915, as a response to the mounting war costs and the increasing pressure for social expenditures such as the old age pension, there developed an acute Commonwealth/State rivalry for the taxpayer’s tax contributions.

Krever suggests that after 1915, although the Commonwealth income tax operated in tandem with the State income taxes, the different costs bases for these separate tax regimes imposed high compliance costs on taxpayers and “led to costly administrative inefficiencies.” Not only were there these high compliance costs but the two systems of income tax lead to complexity and “inequitable taxation of income across states.”

Both in 1922 and 1936, there were attempts by the federal government to harmonise the State and Commonwealth income tax legislation. However, it was only in the 1940’s when the Commonwealth was successful, after surviving a number a number of constitutional challenges, in its bid to consolidate income taxation and alone levy income tax, that the States backed away from exercising their power to inflict income tax on taxpayers.

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118 Harris, P., above, note 14, at 167
119 Harris P., above, note 14, at170
120 Harris P., above, note 14, at 175
121 Smith & Warren, above, note 27, at 3
122 Krever, R., above, note 112, at 2
123 Reinhardt, above, note 21, at 2
124 In 1942, the Uniform Income Tax Act was introduced and according to Warren (Plucking... 4) this was the second most significant event in Australia’s tax history.
125 The States still share the power with the Commonwealth to impose direct taxation. Section 51 II Australian Constitution
126 According to Krever, war finance needs prompted the Commonwealth government to usurp the income field by raising Federal taxes to the extent that taxpayers were unable to afford to pay both State and Federal taxes and at the same time promising transfer payment to any state which relinquished its state income tax.
The effects of World War I on Taxation Policy

With the war, and the increase of direct taxation made necessary by its cost, the proportion of indirect taxation gradually declined, until between 1918 and 1920 it was around 38%. Thereafter it increased in consequence of increased duties and expanding imports\(^ {127} \).  

One of the effects of World War I was the creation in Australia of a sense of economic and physical isolation which was paradoxically accompanied by an emerging sense of nationhood and economic independence. This notion of selfhood was manifested in part by the strengthening of support for protectionist policies which sought to shelter and encourage new and existing Australian industries in times of global economic uncertainly and shortage. The year 1921 saw not only the establishment of the Tariff Board but also the innovative Greene Tariff which "was designed as a charter for industrial developments and with it a larger white population able to defend Australia."\(^ {128}\) Tariffs on many items of essential clothing were raised appreciably and the consumer began to realise what impact "protection" had on his or her choice of clothing which was available to purchase within their financial means.

From Federation until the beginning of World War I, tariff protection had been a "vexed issue" with "every Australian Government (whatever its political persuasion)" having to deal with "the intense and constant lobbying of free traders and the various groups of protectionists."\(^ {129}\) Following World War I there was a burgeoning of protectionist sentiment and policy schemes in Australia. In fact, Keith Hancock claimed that protection during this period "was more than a policy: it was a faith and a dogma"\(^ {130}\), which was supported by public opinion, private interests and the Commonwealth Treasury. This was a period wrought by a steady increase in tariff rates, particularly aimed at

\(^ {130}\) Hancock, W.K., above, note 26, at 90-1
protecting industries which had grown during the War and those which Government considered were desirable in that they diversified and extended existing industries. In the decade to 1920 the average tariff level for non-food manufacturers almost doubled and then doubled again by 1932.

In the early 1920’s there was a strong belief by government and the union movement that protection raised real wages and this played an important part in shaping public opinion during this time in favour of this fiscal policy. Not only did Australia’s government see “import substitution through protection as a means of raising employment” but “the blessed doctrine of protection” contributed to what Brigden referred to as “easy money” for the Federal coffers as well as covering a multitude of revenue duties and the high costs of Government. The ordinary consumer had no leverage against the combined voices of industry and their unlikely allies, the unions for according to Brigden:

“[t]he protection of manufacturers and of Labour marches in one indissoluble unity, and in this matter, at least, the two lions of employer and employed lie down at the same feast, with the same ‘lamb,’ (sic) consuming the consumer.”

In 1925 Mills suggested that by comparing the Commonwealth Tariff of an average of 25% to the tariffs of some of the leading countries of the time, it is clear, “on the grounds of the severity of the duties and the high percentage of dutiable articles” that Australia had to be classed among high Tariff countries. He calculated that the burden of tariff policy on the consumer was substantially higher than if the consumer had been directly taxed under direct taxation such as Income Tax.

At the height of the tariff increases in the financial year 1923-24 out of the total revenue derived from taxation (approximately £50.8million), 70.3% was derived from customs and excise duties. This was a substantial increase from the 1918-19 financial years when customs and excise provided 53% of the Federal revenue (total £32.8 million). During the 1922-25 financial years, this high percentage of revenue which sprang from indirect taxes allowed the government to significantly lower income, land and entertainment tax. However, this fortuitous situation was to later change

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131 Reitsma, A.J., above, note 38, at 21-2
132 Anderson, K. and Garnaut, R., above, note 17, at 6
135 Brigden, (1925) above, note 134, at 29
136 Brigden, (1925) above, note 134, at 29
137 Mills, S., above, note 4, at 250
138 Mills, S., above, note 4, at 254
139 Smith, J., above, note 54, at 46- referring to a sourced table Mathews & Jay
140 Smith, J., above, note 54, at 154- these taxes were reduced by 10% in 1922 and 12.5% in 1925.
with the onset of the Depression and the various other pressures which at the time were being exerted on the Commonwealth to take over the income tax regime to provide the additional expenditure to needed to cover such social needs such as the dole, the old age pension and the increasing fiscal State demands. This meant that gradually over the next decade the revenue derived from customs and revenue decreased by about 10%. This reflected the decrease in the amount of imported goods during this period and the proposal to use direct taxes such as income tax as they were considered now more needed to cover the cost of government.

It is easy to understand how protection became so popular during this period of global economic and political instability. It was a topic which gained much coverage in the press and was frequently the subject of Parliamentary debates. Shann comments in 1930 that, “[e]ver since the first federal customs tariff was imposed there has been an unceasing propaganda from the secondary industries [and later from primary industries] for more protection.” He suggests that whilst the cause was “not mere greed”, its effects were terrible for the poorer consumer, for tariff changes “raised costs—raised by policies intended to benefit specific groups through their charges to others”. It is interest to note that little was written at the time or subsequently about these effects on consumers.

Protection was also encouraged by the dominant political parties and their strange bedfellows, the unions, as “an instrument capable of not only of redistributing national income more equitably, but also of increasing Australia’s population of European settlers” in line with the White Australia Policy. An added benefit was that by the imposition of moderate tariffs there would be no need for the Government to impose more direct forms of taxation to raise revenue. According to Brigden, the solitary protests of the Free Traders were drowned in a “full flood of economic nationalism, captivated by the attractions of new industries and different employment.” Free traders were regularly unjustly ridiculed by their opponents and the media for being unpatriotic and/or “unfamiliar or impatient with economic reasoning.”

During the war years there had been some relief from the pressure of the tariff debate when there was a world-wide shortage of goods and it became obvious to all sides in the protection debate that tariff protection was of little importance at this time. This situation altered drastically after World War I. The war had greatly encouraged the development of manufacturing industries in Australian

141 Shann, E. O., An Economic History of Australia (Cambridge University Press, 1948) 396
142 Shann, E.O., above, note 141, at 396
143 Anderson and Garnaut, above, n 17, at 30
144 Brigden, (1925) above, note 134, at 29
145 Brigden, (1925) above, note 134 at 44
and the issue of tariff-making ballooned; it became an issue intermeshed with patriotism and the push for a larger white population to defend Australia against future global strife.

The post-war period was one wrought by a steady increase in tariff rates, particularly aimed at protecting industries which had grown during the War and those which Government considered were desirable in that they diversified and extended existing industries. In the decade to 1920 the average tariff level for non-food manufacturers almost doubled and then doubled again by 1932.

In 1921 the Hughes Nationalist Party resolved to experiment with the establishment of the Tariff Board which was “to act as a buffer between it and the various interested groups.” Those who drafted the first legislation for the establishment of the Tariff Board were concerned not only about the need to give a ‘scientific’ level of protection to new and struggling industries but also to safeguard the interests of the consumer. The second objective was never really achieved as the Board, from its inception, was seen and saw itself as “the institutionalised voice of protectionism.” In fact, Hall says that in 1923 the remarks of the Board “leave little doubt as to the uncritical outlook on the question of protection.”

The Board’s early years were not only notable because of its members strict adherence to protection dogma in administering protection but also because it a period which saw the Board’s systematic extension of the umbrella of protection result in a rapid rise and widening of tariff. In particular, there were very large increases in tariff rates on apparel in 1925-26 and by 1928 there were 259 items with duties greater than 40 per cent.

In a letter written in 1926, one of the Board’s members, Mr Herbert Brookes, described the approach of the Board members to their work in the following terms:

“Although we are a fact-finding and non-partisan body, our facts are sought with the object of improving the protectionist system our Country has adopted and not with the idea of improving it out of existence. We are non-partisan because we have been selected by a Government of a country, 95% of whose representatives are protectionists. We are four protectionists- God helping us, and you will add, God helping our Country.”

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146 Reitsma, A.J., above, note 38, at 21-2
147 Anderson & Garnaut, above, note 17, at 6
148 Rattigan, A., above, note 129, at 2 - 3
149 Castles, F., Australian Public Policy and Economic Vulnerability (Allan & Unwin, Sydney, 1988) 94
152 Rattigan, A., above, note 129, at 3
Although this blinkered support of protectionism lost some cachet over time, and increasingly there were cautious suggestions made by various commentators about the abuses of protection by some industries and the ‘safe’ limits of protection, the policy of protection continued to be strongly supported in Australia up until the last few decades. It is interesting to note however, that by the second part of the 1920’s it was suggested by many, including Brigden and even the members of the Tariff Board, that the danger with protection is that an industry developed behind a wall of protection tends to become inefficient and by sustaining inefficient industries that there is often a resultant lowering of incomes.

By the middle of the 1920’s the Board became more critical in its attitude to requests for increased duty. The Tariff Board’s 1927 Annual Report there is a section headed “Abuses of Protection” in which the Board gives “the sins of the industrial union” pride of place and the Board also accused both primary and secondary producers of requesting prohibitive duties in many cases to preserve home market inferior products produced by inefficient means. Yet, at the same time, the Board continued to make its hollow assurances to consumers that it kept their interests in mind. Despite the Board’s concern with the abuses of protection, it continued to “follow the faith” and approve most applications for tariff increases even though the lower classes continued to be severely regulated by government as to what clothing was available for them to purchase.

However, it has been suggested by many, including Brigden and even the members of the Tariff Board in the late 1920’s that the danger with adhering blindly to a policy of protection is that an industry developed behind a wall of protection tends to become inefficient and by sustaining inefficient industries that there is often a resultant lowering of incomes.

Conclusion

The odd thirty millions which it contributes to the Federal Treasury is “easy money,” (sic) and the blessed doctrine of protection covers a multitude of revenue duties, as well as high costs, against which only a few disgruntled individuals lift their solitary protests in despair.

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153 Hall, G.J., above, note 150, at 22-24
The above exploration shows that customs duties or tariffs have always played a significant role in the Australian taxing regime. In colonial times these indirect taxes were predominantly imposed for revenue raising purposes to originally supplement the official stipend provided by the British Parliament and then later implemented to provide for each colony’s individual economic and social needs. Whilst it is far from the truth to argue that these early types of taxes had no protective motives, it cannot be denied that in the first seven decades of the nineteenth century these taxes were mainly used for revenue-raising. It was only in the last few decades of that century that we see the colonies’ protective objectives actually more pronounced.

The ‘tariff debate’ has at many times in the past created heated and often divisive debates between the stakeholders and those with various vested interests. In fact, the prospect of a uniform tariff stimulated some of the most heated debates between the colonies. The Colonies feared the prospect of Federation and the proposal that they be stripped of their power to impose customs and excise duties. Even after Federation the collection (and distribution) of indirect taxes and the issue of tariff protection remained some of the most ‘vexed’ issues with every Australian Government, whatever its political persuasion. However, after World War I sentiments changed and there was a considerable turnaround in private and public opinion about the efficacy of a uniform protective tariff policy. There developed over the next decade an almost universally ‘blinkered’ acceptance of protectionism as a nationalistic economic policy which aimed firstly to protect industries born during the war and secondly as a means to encourage others that were regarded as desirable and beneficial to the newly emerging independent Australia.

The Australian tariff consequently was seen as a ‘sort of panacea’ for government, industry and unions (often at the detriment of the consumer) in their often clumsy attempts to correct market imperfections in a time when the rest of the world was experiencing social unrest and economic uncertainty. Although Mills would have disagreed and in hindsight it seems incredible, Brigden argues that this “gospel of protection”\footnote{Brigden, J.B., above, note 127, at 18} not only had widespread popularity with the general public but increases in customs taxation were keenly welcomed. Moreover, he considered that the collection of this tax was undertaken by means of ‘painless extraction’ with the “indirectness of the method acting as an anaesthetic.”\footnote{Brigden, J.B., above, note 127, at 18} However, the tariff also had unexpected beneficial fiscal consequences for the Federal Government. We see that not only did it save the government the task of imposing direct tax on income (an anathema to many) to cover the costs of government but the tariff also generated an enormous increase in unexpected revenue by incidentally increasing the proportion of customs to total taxation: it was “easy money”.