

Chapter 3

Amending the Constitution

The 1921 Armidale Convention had resolved that there would be a double thrust to the New-Staters' efforts. They would petition the NSW Parliament - the issue will be explored in the next chapter - and they would strive for an amendment of the Commonwealth Constitution. Initially, this amendment would be sought via a submission to a proposed constitutional convention. When no convention was held, the New-Staters pressed for a constitutional amendment via a Federal referendum. Never having the numbers in the Federal Parliament, the parliamentary supporters of New States never secured their desired amendment, even when they were in Government. They could not overcome the hurdles. This chapter will examine the hurdles and the attempts to amend the Constitution between 1919 and 1930, and will analyse how Page and Thompson responded when they came up against complex political structures and diverse political agendas in the Federal arena.

Constitutional amendment was possible, but there would be hurdles to overcome. The first part of this chapter will outline the hurdles, so that the New-Staters' efforts will be set in the context of what was necessary. Amending the Constitution would require a national referendum.¹ A straight-out referendum would require a bill to be drafted, tabled, debated and passed by a majority in both Houses. On the other hand, if a majority in the Houses did not favour a referendum, then the key political issue for reformers would be how to secure the majority. Securing the parliamentary majority was the first hurdle. A referendum would be expensive and the outcome would be unpredictable; it would be anybody's guess how the majority of electors in a majority of the States would vote. The second hurdle was to secure the majority in a national referendum.

The need for constitutional amendment had long been recognised; between 1919 and 1930 various means were advocated for securing agreement on the desired amendments. During 1919, the Nationalist Party overcame the first hurdle when bills were drafted, tabled, debated and passed by a majority in both Houses, for a referendum to be held in conjunction with the 1919 Federal election. The two

¹ See Chapter VIII of the Commonwealth Constitution.

proposed amendments were rejected; the second hurdle had not been overcome.² During the next election, the Prime Minister, W.M. Hughes, said that proposals for constitutional amendment "ought to be treated as non-party measures", but "the fact remains that amendments put forward by one party have been opposed by its opponents".³ He believed that amendments framed by the party in power and submitted at a referendum would not be approved by the majority of electors in the majority of the States. His proposed solution was a constitutional convention followed by a referendum. This method, however, would be more complicated, because a convention could only suggest amendments which could not be adopted without a Federal referendum. For a convention to be held, a bill would have to be passed through both Houses, then after the convention, another bill would have to be passed for a national referendum to be held. Thus, a convention followed by a referendum would be more expensive and the outcome would be more unpredictable and would exacerbate the difficulties already mentioned. In 1921, a bill for a constitutional convention was drafted, tabled, and debated, but suitable to none of the parties, the bill was defeated and shelved. A parliamentary majority had not been secured; the bill did not get over the first hurdle.

There were other problems with a constitutional convention. As shown in 1921, there was the difficulty with the enabling legislation, because the political parties and the States disagreed on the proportions of representatives; there would also be the huge expense of electing a convention; lastly, the results would have to be debated in the Federal Parliament before submission at a national referendum, whose vicissitudes have already been mentioned. The problems with a convention were well summed up in 1927, by J.G. Latham, the Attorney-General, who said: "a convention is a practical impossibility".⁴

Between 1923 and 1927, S.M. Bruce, the new Prime Minister, switched from advocating a constitutional convention, to advocating a constitutional session, then a select committee, and finally, a royal commission. In 1927, given that a constitutional convention was "a practical impossibility", the Government tried to appoint a select committee, but Labor would not co-operate. Accordingly, the Government opted for a royal commission. Another option - a parliamentary

² For a summary of Federal referendum proposals and their outcomes, 1901-19, see *Commonwealth Parliamentary Debates (CPD)*, 14 March 1930, vol. 123, p. 179.

³ *National Policy and Record, the Prime Minister's Policy Speech, Tuesday, 26 October 1922*, Sydney, 1922, copy in Latham Papers, NL, MS 1009/24-13.

⁴ *Ballarat Courier*, 8 August 1927.

constitutional session - had been overlooked. No explanation was given for not holding the constitutional session. It seems the Government was not serious about the amendments and had proposed a royal commission because it would look as though something was being done, when all that was happening was that time would be passing. Latham's claim that "a commission is the simplest way out of the difficulty" was more telling than he thought.⁵

There were other hurdles which the New-Staters would face in their attempts to amend the Constitution and these must be outlined also. The proposed amendment would have to be appropriately worded, but the wording was contentious. The new provision(s) in Chapter VI of the Constitution would have to specify whether a referendum should be held solely in the proposed New State area, or in the State as a whole before the Commonwealth would continue with the separation process. It seems doubtful that a constitutional amendment would be agreed to if it ruled out the opportunity for the State as a whole to express its opinion on the separation of its territory. On the other hand, any amendment which included the requirement of the State's approval would be no significant improvement on the existing provision in Section 124. The wording of the amendment was a vexed issue.

As noted in chapter 1, logistically, it should have been less difficult to secure the New State via the existing Section 124, than by attempting to amend the Constitution. Early in the 1920s, however, it seemed eminently sensible for the New-Staters to seek an amendment to the Commonwealth Constitution rather than seeking the approval of the NSW Parliament. As it turned out, however, the New-Staters would never get past the first hurdle, they would never secure a parliamentary majority, and therefore, would never secure a constitutional convention or a Federal referendum.

The second part of this chapter will analyse the emergence of a third party and the party's various attempts to secure a bill for a constitutional convention. It was noted in chapter 1 that Earle Page had won Cowper at the December 1919 Federal elections. Subsequently, early in 1920 he joined with some other country members in the Parliament to form a third party, the Australian Country Party (ACP). The ACP arose from the Australian Farmers' Federal Organization (AFFO), which had been formed in 1917 to provide a national link between

⁵ *Loc. cit.*

affiliated State bodies. Some twenty-six AFFO candidates were nominated at the Federal election in December 1919; some also had the endorsement of the Nationalist Party. Of the twenty-six candidates, fifteen were successful, eleven of them in the House of Representatives. Their success was due to the newly introduced preferential voting, because the danger of vote-splitting had been eliminated.⁶ The emergence of the ACP was an expression of agrarian unrest; this point was noted in chapter 2.

There were eleven ACP members in the House of Representatives.⁷ Although the party would hold the balance of power, its clout would be undermined because the party did not always vote as a whole. The ACP was not united on many issues and lacked the discipline of the Labor Party or the cohesion of the Nationalists. The Country Party included a radical group which would support Labor against the Nationalists, a conservative group who were totally opposed to Labor, and a middle group of varying views.⁸ This did not augur well for the use of its balance of power. The party met in Melbourne, the temporary Federal Capital, in January 1920.⁹ Having elected the office bearers, the party got down to the business of constitutional reforms.

The AFFO had included constitutional reform on its 1919 platform.¹⁰ The ACP resolved that the proposed convention "should be elective on its basis", that each State "should have an equal number of delegates" to be elected by proportional representation, and reflecting "community of interest" with "proper rural representation".¹¹ This decision about the selection of delegates for the proposed convention would later be adopted as the official view of the Northern New State Movement.

⁶ Farming parties had insisted on contesting elections, and had split the Nationalists' vote; the Nationalists agreed to introduce preferential voting to prevent Labor from winning the elections. See U.R. Ellis, *A History of the Australian Country Party*, Melbourne, 1963, pp. 41-44; Cecil Edwards, *Bruce of Melbourne: Man of Two Worlds*, London, 1965, pp. 40-2; B.D. Graham, *The Formation of the Australian Country Parties*, Canberra, 1966, pp. 126-9.

⁷ The ACP members were: W.C. Hill, W.G. Gibson, R. Cook, E. Jowett, and P.G. Stewart (Victoria); E. Page, A. Hay and J.H. Prowse (NSW); H. Gregory (WA); W.J. McWilliams (Tasmania) and A. Wienholt (Queensland). Ellis, *op. cit.*, pp. 50-1.

⁸ Geoffrey Sawer, *Australian Federal Politics and Law 1901-1929*, Carlton, 1956, p. 186.

⁹ Ellis, *op. cit.*, p. 52.

¹⁰ Sir Earle Page, *Truant Surgeon: The Inside Story of Forty Years of Australian Political Life*, Sydney, 1963, p. 72.

¹¹ Ellis, *op. cit.*, p. 52.

The day after the ACP meeting, the Representatives met for the first time since the elections. A Nationalist, Sir Elliot Johnson, was re-elected as Speaker. The Nationalists, led by W.M. Hughes, claimed the Government, but its thirty-six members were not a majority. There were thirty-eight members in the Opposition, so the Country Party held the balance of power. If the ACP went into direct opposition and voted as a whole, then the Government would be outnumbered. The Hughes Government was in a most precarious position and the ACP was in a most favourable position.

The Labor Party wasted no time in testing the waters, very quickly moving a motion to censure the Government. Ellis contended that if the Government was to be defeated, the ACP wanted it to be on its terms, not on Labor's, so the ACP voted against the motion.¹² Cecil Edwards, in his biography of S.M. Bruce, suggested a different interpretation, that the ACP was not prepared to let Labor in, but would try to discredit Hughes and the Nationalists, so that the ACP would gain more seats at the next election, and thus, would have the real balance of power.¹³ Fitzhardinge, in his biography of Hughes, agreed with Edwards, but noted there was a danger of the Government's "accidental defeat" because of the ACP's "inexperience and lack of discipline", and "the doubtful loyalty of some Nationalist backbenchers".¹⁴ There was a strained atmosphere in the House, and conditions were ripe for the ACP to demand concessions from the Government in return for keeping it in office.

Page wasted no time in raising the New State issue in the House. He advocated the creation of new States when he gave his Address-in-Reply speech on 17 March 1920. He also called for a convention to revise the Commonwealth Constitution. He said that the advantage of a convention was that it would afford the opportunity for a full discussion of issues.¹⁵ A convention had already been mooted. Hughes had submitted constitutional amendments at a referendum held with the 1919 Federal election, but they had been rejected by the people.¹⁶ In February 1920, Hughes had persuaded Cabinet to agree to a plan for a

¹² *Ibid.*, p. 53.

¹³ Edwards, *op. cit.*, p. 48.

¹⁴ L.F. Fitzhardinge, *The Little Digger, 1914-1952: William Morris Hughes - A Political Biography*, volume 2, Sydney, 1979, p. 435.

¹⁵ Ellis, *op. cit.*, pp. 53-4.

¹⁶ Fitzhardinge, *op. cit.*, p. 426-7, 430-1.

constitutional convention of seventy-two members, eighteen to be chosen by the Federal Parliament, three to be chosen by each State Parliament, and six by the electors of each State as a whole.¹⁷ Not having the numbers to guarantee the outcome of the parliamentary debates, Hughes turned cold on the idea of a convention.

It was noted in chapter 2 that during the meeting of the New State Executive at Glen Innes on 23 August 1920, Page successfully moved that a delegation should approach the Prime Minister and ask him to allow northern NSW to be represented separately at the proposed Federal convention.¹⁸ In due course Bruxner, Page, Drummond and others met with Hughes in Melbourne and explained the Movement's view regarding the election of delegates for the proposed Federal convention.¹⁹ Hughes said he was in favour of "an electoral basis that will give the country districts equal representation with the cities".²⁰ So, the delegation had obtained from the Prime Minister a political promise that the country districts would have fair representation at the constitutional convention which was to be held in 1921. It seemed all was going well for the New-Staters, but they had not taken into account the fact that Hughes had gone cold on the proposed convention.

Early in April 1921 Austin Chapman (Nationalist, Eden-Monaro, NSW), stated that he had a definite promise from Hughes that an enabling bill to authorise a Federal convention would be submitted to Parliament during the current session.²¹ When nothing was forthcoming from Hughes, Page, who had become the ACP's permanent leader on 5 April 1921, threatened to bring down the Government unless Hughes promised to hold the convention.²² Page had negotiated with Hughes and in return for keeping the Government in office, Page had secured an undertaking that a constitutional convention would be held.

¹⁷ *Ibid.*, p. 440.

¹⁸ *Armidale Express* (hereafter *AE*), 27 August 1920.

¹⁹ See letters between Thompson and Hughes' secretary, October to November 1920, in Bruce Papers, AA, D110/3/118.

²⁰ See Bruxner's report of the Melbourne meeting in Minutes, NSM Executive Meeting at Tamworth, 15 December 1920, Minute Book I.

²¹ *AE*, 8 April 1921.

²² Ellis, *op. cit.*, pp. 62-3.

The ACP was anxious to secure an enabling bill which would allow country districts to be fairly represented at the proposed convention. The New State Movement endorsed Page's proposal for the election of the delegates.²³ Page favoured the subdivision of each State into five electoral areas, and each area was to elect three delegates by proportional voting. Each of the six States would have fifteen delegates with a total of ninety at the convention.²⁴ He also wanted provision for legal and financial committees to be appointed to advise the delegates so proper decisions could be made at the convention. The other political parties had divergent views on the whole issue. For instance, the Labor Party Conference at Brisbane in October 1921 announced that it was against the convention, because it would be "an unnecessary addition to and complication of the established procedure for constitutional amendment".²⁵ Labor believed the Parliament was the place for discussing proposed amendments. Walter Massy Greene, the Minister for Trade and Customs, outlined the Nationalists' view. He said there was a need for the re-allocation of power between the States and the Commonwealth and for the consolidation of State and Commonwealth debts, both past and future.²⁶ The Nationalists agreed that constitutional reforms were needed, but the Nationalists did not have control of the Parliament, and were not enthusiastic about holding the convention. So, the ACP could expect opposition to its proposals during the parliamentary debate.

The constitutional convention could not be held without an enabling bill being tabled, debated and passed, and therefore, the next issue to be resolved was the date for the bill to be tabled in the House. Clearly, there would be a delay if for no other reason than that Hughes was about to go to London to attend the Imperial Conference. Hughes asked for a guarantee of immunity for his government while he was absent. Having secured a promise that the convention would be held, Page gave Hughes a conditional guarantee.²⁷ Hughes left Melbourne on 28 April 1921. There is no evidence that Hughes did anything about the convention while he was attending the Imperial Conference. He wanted to remain overseas to attend the Washington Disarmament Conference, but Page would not agree to an extension

²³ Minutes, NSM Executive Meeting at Kempsey, 14 November 1921, Minute Book II.

²⁴ *Argus* (Melbourne), 6 September 1921.

²⁵ *Ibid*, 10 October 1921.

²⁶ *Daily Mail* (Sydney), 9 September 1921.

²⁷ Ellis, *op. cit.*, p. 62; Fitzhardinge, *op. cit.*, p. 463; *CPD*, 13 April 1921, vol. 94, pp. 7393-4.

of the truce.²⁸ Hughes arrived back on 27 September, and told the House the Government would introduce a Convention Bill "after the present business in the House was finalized".²⁹ Quite probably, nothing was ready, so Hughes needed to stall. The "present business" was duly finalized and the Constitution Convention Bill was introduced on 22 November 1921, almost two months after his return.

The Bill proposed a convention of 111 delegates (a number equivalent to the combined membership of the House of Representatives and the Senate). The electors would choose seventy-five, and the members of Federal Parliament would choose eighteen; the House of Representatives would choose twelve and the Senate would choose six. Senators and Representatives would be eligible for election. The other eighteen delegates would be chosen by State Parliaments, three from each State. The State Parliaments could devise their own means for choosing their delegates. The Bill specified that within thirty days of the Act being passed the Governor General was to issue writs for the election of members, and within four months of the first meeting, the Convention was to report proposed amendments to the Governor-General, whereupon they should be submitted to Parliament. Within fifteen days of their presentation to Parliament, the Government was required to introduce legislation for the alteration of the Constitution as proposed by the Convention.³⁰ Thus, the Bill implied that the Convention would sit between Parliamentary sessions, and the referendum could be taken with the 1922 elections.

Members of all parties roundly condemned the Bill, freely admitting that it would not be passed by the House of Representatives. Many members feared political competition and believed they would have to represent their electorates or they would be undermined by the elected delegates. The ACP rejected the means of electing the delegates; the proposed means were contrary to those agreed to by the party in 1920. The Labor Party totally rejected the proposal, claiming the whole idea of a convention was a waste of public money. Labor claimed two costly campaigns were involved because the election of delegates and the referendum would each cost at least £100,000. More likely the real reason was that they were not in power in the Federal Parliament, and therefore, seemed willing to

²⁸ Graham, *op. cit.*, p. 177.

²⁹ *AE*, 7 October 1921.

³⁰ 'A Bill for an Act to make provision for a National Convention for the purpose of the Revision of the Constitution of the Commonwealth, for laying the proposals of the Convention before the Parliament, and for other purposes in connection therewith', copy in Ellis Papers, NL, MS 1006, series 7 B, box 22, folder 97.

wait. The Nationalists were mostly hostile to the whole proposal because they did not have absolute power in the Parliament. The States were opposed to delegation on a population basis and wanted equal numbers of delegates.³¹ It seemed that the Bill as introduced was doomed to be rejected.

In December 1921, the House of Representatives agreed to shelve the Constitution Convention Bill. Page secured a promise from the Prime Minister that next year he would arrange for constitutional amendments to be moved in the House, in the form of a referendum for submission to the electors at the next general election and that if the New State and other proposed alterations were supported by a reasonable number of members he would assist their passage through the House. Hughes subsequently confirmed this promise to the House when moving that the Bill be discharged from the notice paper.³² The Federal Parliament then closed down for this session and was not expected to meet again until the middle of 1922. The proposal to hold a Federal convention to draft amendments to the Constitution had been abandoned.

Hughes had kept his promise to Page and had introduced an enabling bill for a convention. Not having a solid majority in the House, Hughes had gone cold on his 1919 election promise for a convention and had introduced a bill which was destined to be rejected. Hughes had reneged on his assurance to Page regarding the provisions for electing the delegates and, as will be shown later, this would create further hostility between the ACP and Hughes. Meanwhile, by the end of 1921, the New-Staters had made no progress in the Federal arena.

The Commonwealth Parliament did not sit in the first half of 1922 so there was no parliamentary New State activity in the Federal arena.³³ An important policy decision, however, was made by the Prime Minister. During 1922 Hughes had sought advice from the Attorney-General about New States and was informed: "In order to carve a new State out of an existing State, the concurrence of the Federal Parliament and of the Parliament of the existing State is required, but not any approval at a referendum" [sic]. Hughes wrote on it: "Probably this may be so,

³¹ *Argus* (Melbourne), 23, 24, 25 November 1921.

³² *AE*, 9, 13 December 1921; *Daily Mail* (Sydney), 12 December 1921; *Age* (Melbourne), 12 December 1921.

³³ Most writers about New State issues made reference to Hughes's visit to Grafton in May 1922. It was of no real significance.

but it is certain that no State Parliament would exercise its power without giving the electors an opportunity of voting". His conclusion, also handwritten on the page, was: "The Fed [sic] Parliament can have no involvement unless and until the State Parliament has approved".³⁴ Henceforth, this would be the official policy of the Federal Parliament, and would be the basis of its reply in 1923 to a 1922 letter from the NSW Parliament. The issue will be analysed in chapter 4.

Meanwhile, in July 1922, there was an important New State conference in Albury. Its antecedents began after the 1921 Armidale Convention, when the Northern New State Movement began a drive for harmony and unity among the various New State movements to ensure they would submit uniform proposals at the proposed Federal Convention. Page went with Thompson to North Queensland, with Drummond to the Riverina, and with Bruxner to Western Australia in August. Page's new status as leader of his party added weight to his presence. Page was anxious to secure "a uniform act of amendments" which would give "more complete definitions of Federal and State powers" by handing over national matters to the sole control of the Commonwealth while safeguarding the State Governments in "the exercise of those powers which are necessary for local progress and development".³⁵ As noted in chapter 1, Page had gone into Parliament to achieve these ends and he was now striving to achieve them. The rapid growth of other movements increased the potential for greater influence within Federal and State Parliaments. An All-Australia New States Movement was formed, and a conference, which was composed of executive members of the various movements, was held at Albury, starting on 3 July 1922.³⁶

In his speech, Page said the Convention Bill "had been killed so the only alternative was to proceed by a series of amendments to the Constitution by referendum, step by step". He said he would have preferred to have a constitutional convention. A motion by Drummond led the conference to affirm its desire for a Federal constitutional convention, "to be wholly elected by the people of the Commonwealth, to remodel the Constitution and to secure a new and definite apportionment of the powers of State and Commonwealth". A resolution was passed adhering to the Federal principle and opposing unification.³⁷ It would

³⁴ Attorney-General to the Prime Minister, 13 July 1922, AA, folder E327/1/2 D110/3/47.

³⁵ *Sydney Morning Herald* (hereafter *SMH*), 20 May 1921.

³⁶ Abbott, Bruxner, Drummond, Page, Raymond Perdriau (MLA, Byron), Colin Sinclair, and Thompson represented the Northern Movement.

³⁷ *SMH*, 4 July 1922.

seem that the New-Staters were determined to press for a Federal convention, which would allow a broader review of the Constitution, rather than the alternative, a referendum for each amendment. Later they would change their minds and see the wisdom of aiming for just one amendment, the New State provision.

The conference also resolved to test the possibility of success in the State Parliaments under Section 124 of the Constitution. Page said this course of action was necessary, because they could not apply for a constitutional amendment without having exhausted the present constitutional methods.³⁸ So, the main thrust would be in the Federal arena where they would seek a constitutional convention, and the approach to the State Parliaments would be a ploy; this issue will be pursued in chapter 4.

Having promised in December 1921 "to arrange for constitutional amendments to be moved in the House", Hughes discussed the issue at a party meeting on 7 September 1922, but a majority decided "it would be undesirable to introduce amendments at present". Fitzhardinge seemed surprised that "in spite of this rebuff, Hughes repeated the promise of a convention in his policy speech".³⁹ There is no inconsistency. The Nationalists did not have the numbers in the Eighth Parliament, so they went to the polls promising a convention, hoping to secure the numbers in the next Parliament.

The desired Federal convention and the New State issue were prominent in the 1922 election campaign. In his policy speech, Hughes said the Government believed that some constitutional amendments were necessary, and he promised that during the first session of the new Parliament, the Government would "legislate for the election of a constitutional convention".⁴⁰ He failed to mention that holding the convention would depend on whether the Nationalists had absolute power in the Parliament. The ACP's platform had fourteen points, including "holding a Federal convention to consider revising the Constitution" and "the formation of New States by subdividing the present and unwieldy States into manageable areas".⁴¹ The Nationalists had promised "to legislate" for a

³⁸ *SMH*, 5 July 1922.

³⁹ Fitzhardinge, *op. cit.*, p. 441.

⁴⁰ *National Policy and Record, the Prime Minister's Policy Speech, Tuesday, 26 October 1922, op. cit.*

⁴¹ Copy of ACP platform in Latham Papers, NL, MS 1009/24-9.

constitutional convention, but the ACP had promised to have it. In light of the 1921 Convention Bill the distinction is important.

The election in New England was very significant in the New State story because it marked Victor Thompson's entry into Federal Parliament, whence he would urge constitutional amendments. His previous efforts on behalf of the New State Movement had given him sufficient prominence to justify his nomination. His newspaper connections would be a strength for both his personal campaign and that of the ACP. Thompson had been a tireless worker for the New State Movement. He took six months leave from the *Northern Daily Leader* (from 1 July 1921 to 31 December), to work for the New State Movement, without salary, providing that travelling expenses (£1 per day) were paid. At his own expense, he published a monthly illustrated journal, the *New State Magazine*.⁴² Thompson had a breakdown in health in November 1921 and was out of action for some months.⁴³ His health recovered and he accepted nomination for New England. He was granted three months leave from his newspaper to contest the New England seat.⁴⁴ Thompson said that "if returned to Parliament he would urge on with all his power the consummation of the New State". He believed "the only hope for the proper development of country districts was the subdivision of the present unwieldy areas".⁴⁵ Thompson made the New State issue a principal theme in his campaign, and said he would interpret the result as an indication of northern feeling on the issue.

If Thompson was such an avid New-Stater why did he not stand on that issue alone as an independent? Thompson addressed the question during the campaign. He said the ACP "already espoused the ideals and contained some of the New State Movement's leaders, so it was only natural he should desire to get behind them".⁴⁶ This was not a satisfactory answer. He could have explained the political difficulties to be overcome and the importance of party support to get elected and then to secure a majority on the floor of the House. One wonders whether Thompson really appreciated the hurdles the New-Staters had to get over.

⁴² Minutes, NSM Executive Meeting at Lismore, 5 July 1921, Minute Book II.

⁴³ Minutes, NSM Executive Meeting at Scone, 11 September 1922, Minute Book II; *New State Magazine*, No. 5, May 1922, p. 1.

⁴⁴ AE, 10 October 1922.

⁴⁵ AE, 24 November 1922.

⁴⁶ AE, 5 December 1922.

Thompson was the sole endorsed Country Party candidate for New England. Roland Green⁴⁷ had sought endorsement, but had withdrawn his nomination to remove the real danger of splitting the ACP vote.⁴⁸ The supporters of the sitting member, Major Alex Hay, had said they would not give their second preferences to Thompson.⁴⁹ The New England seat was contested by Thompson, an endorsed ACP candidate, Hay, an independent ACP candidate, and S.J. Kearney, the Labor candidate, who opposed the creation of New States. He said: "We are overburdened legislatively already with six States and the Federal Parliament. What would be the earthly good of another?" He favoured unification.⁵⁰ The New State issue was a prominent theme in the New England election.

Thompson won New England on second preferences, with a margin of 3,699.⁵¹ Page was returned for Cowper, and there was a notable success in Richmond (see Map 1.4), where Roland Green, who had lost a leg in the war, used the slogan "vote for Green without an 'e'" (a knee) and defeated the high profile sitting member, Walter Massy Greene (with an 'e'). In the Riverina, W.W. Killen, who was active in the Riverina New State Movement, defeated the sitting member, J.M. Chanter. The ACP missed out on Gwydir by thirty-seven votes. Thompson's win would allow him to push the New State cause in the Federal arena. His win was also of great value because he would be entitled to a railway pass and it would save the Movement the heavy annual expense for his railway travelling. Thompson reported to the New State Executive that "the result of the Federal elections was eminently satisfactory from our point of view".⁵²

⁴⁷ Green was born in 1885, began work as a bank clerk but found the job too boring, and went to sea to wander around the world. He enlisted in 1914 and served in the Light Horse and the Infantry at Gallipoli and in France. He lost a leg. After the war Lieutenant Green bought a small grazing property near Wollomin (near Tamworth). He unsuccessfully contested the State seats of Newcastle in 1920, and Namoi in March 1922.

⁴⁸ *AE*, 13 and 17 October 1922. Green subsequently contested Richmond against the sitting Nationalist, Massy Greene.

⁴⁹ *AE*, 20 October 1922.

⁵⁰ *AE*, 31 October 1922.

⁵¹ Thompson topped the first preferences with 7,726, ahead of Kearney with 7,683 and Hay 6,2824. Second preference favoured Thompson with 4,969 and Kearney 1,313, giving Thompson 12,695 and Kearney 8,996.

⁵² Thompson's report, attached to Minutes, NSM Executive Meeting at Tenterfield, 22 March 1923, Minute Book II.

The Nationalists suffered a smashing defeat at the polls, with six Ministers and three other members losing their seats. The 1922 election returned a House of Representatives with twenty-eight Nationalists, thirty Labor members, fourteen ACP members, two Liberals and one Independent. The ACP had gained three seats, again held the balance of power, and was determined not to ally itself with the Nationalists while Hughes remained the leader.⁵³ During January 1923, managers who had been appointed by the Nationalists and the ACP met. Initially, Hughes would not stand down, but by early February many Nationalists favoured the resignation of Hughes and the appointment of a leader more acceptable to the Nationalists and the ACP. Hughes resigned the Prime Ministership and was succeeded by S.M. Bruce. A few days later, Bruce and Page agreed to the formation of a composite ministry in which each party would preserve its separate identity. Bruce and Page issued a joint statement. Bruce would be the Prime Minister, Page would be Treasurer, and the composite arrangement would be known as the Bruce-Page Government.⁵⁴ There were five ACP members in the Ministry.⁵⁵ The press maintained that Bruce had agreed to Page's long list of demands, including a Federal convention or a Parliamentary session on New States, but Page denied there was a list.⁵⁶ From the New-Staters' point of view the situation was most satisfactory. There was an expectation that the composite government would secure the long-awaited Federal convention.

Parliament assembled on 28 February 1923 to fulfil the constitutional requirements. The new Government had not been able to prepare and print the Governor-General's Speech enunciating a legislative programme, so his speech was short, but it was followed by the usual 'Address-in-Reply' debate.⁵⁷ Thompson, the new member for New England, wasted no time in raising the New State issue. Thompson outlined the New State agitation in northern NSW, in northern and central Queensland and in some places in Western Australia, and

⁵³ The 14 ACP members were: E. Page, V. Thompson, R. Green and W. Killen (NSW); W. Gibson, W. Hill, P. Stewart, R. Cook and T. Paterson (Vic.); J. Hunter (Qld.); H. Gregory and J. Prowse (WA); L. Atkinson and J. Whitsitt (Tas.).

⁵⁴ Hughes Papers, NL, MS 1538/16 616-650; Ellis, *op. cit.*, pp. 89-98; Page, *op. cit.*, pp. 90-100; Edwards, *op. cit.*, pp. 69-76; Fitzhardinge, *op. cit.*, pp. 511-7.

⁵⁵ Page (Deputy Prime Minister and Treasurer), Gibson (Postmaster-General), Stewart (Works and Railways), Senator V. Wilson (Honorary Minister), and Atkinson (Vice-President of the Executive Council).

⁵⁶ See AE 27 February 1923; Page, *op. cit.*, p. 100.

⁵⁷ Edwards called the Address-in-Reply debate "that curious anachronism that permits M.P.s to wander over every subject that enters their heads". See Edwards, *op. cit.* p. 151.

concluded that "three States want the Federal Parliament to facilitate the subdivision of unwieldy areas". Thompson said he favoured an elective New State convention followed by a referendum. He said the ACP would keep the composite Ministry "up to its obligations".⁵⁸ Whether the ACP would do that remained to be seen. Besides, Labor made it clear they opposed a convention. Percy Coleman (Labor, Reid, NSW), said a convention would be a waste of money because constitutional amendments could be discussed by the Parliament.⁵⁹ It seemed there would be as much disagreement on the issue in the new Parliament as there had been in the old.

In the Senate, there was also support for New States. General William George Thompson from Queensland said "tripartite division of Queensland has been advocated for years and has many supporters". He hoped the Government would give a full opportunity for discussing the matter during this session.⁶⁰ Discussing the matter was one thing; achieving something would be another.

The Federal elections delayed any meeting of the New State Executive until March 1923. They were exceedingly optimistic. Thompson reported that Page had indicated that a bill for a Federal convention was "one of the cardinal commitments of the Ministry". The Executive decided to have another northern convention at Armidale to decide their policy for the Federal convention.⁶¹

The Second Armidale Convention was held on 5, 6, and 7 June 1923. The Convention was opened by Page, who said the State Parliament would have to take the first steps to initiate the New State, by determining the boundaries and settling the financial issues. He said that once that was done, the Commonwealth would decide the terms and conditions to be imposed and the extent of representation in both Houses, and would then introduce a bill into the Federal Parliament for the admission of the New State into the federation.⁶² This was in keeping with the policy Hughes had decided in July 1922. The Convention resolved to continue its double thrust. In the State sphere, the NSW Parliament would be asked to define the New State boundaries and to suggest conditions for

⁵⁸ CPD, 8 March 1923, vol. 102, pp. 273-80.

⁵⁹ *Ibid.*, p. 170.

⁶⁰ *Ibid.*, p. 117.

⁶¹ Minutes, NSM Executive Meeting at Tenterfield, 22 March 1923, Minute Book II.

⁶² *Official Report of the Proceedings of the Second Convention held in the Town Hall, Armidale on June 5, 6 & 7, 1923*, Tamworth, 1923, p. 4.

the transfer of assets; these State issues will be analysed in the next chapter. The Convention also decided to press for a constitutional amendment to allow the formation of New States by direct petition to the Federal Parliament.

There would be a change in how the amendment would be sought. The Convention went cold on the idea of a Federal convention to revise the Constitution, because they now realized that such a convention was beyond them; instead, they decided to press for specific New State amendments at a referendum.⁶³ A deputation representing the various New State movements was to request the Prime Minister to submit a referendum bill to the Federal Parliament as soon as possible, and the Parliament was to be urged not to submit any other proposals at the referendum, "thus ensuring that the question of establishing New States shall be considered by the people as a single issue free from the intrusion of other issues".⁶⁴ The proposed Federal convention had been dropped in favour of a referendum.

To sum up: the ACP had secured the Convention Bill in November 1921, but the ACP, Labor and the Nationalists had been hostile to it and it was shelved. Hughes had promised he would arrange for constitutional amendments to be moved in the House in 1922, but the All-Australia Conference resolved to push for a convention. Page and Drummond were keen on a constitutional convention so that the whole Constitution could be reviewed to remodel it "to secure a new and definite apportionment of the powers of State and Commonwealth". As noted in chapter 2, the 1921 Armidale Convention had led some New-Staters to think any thing and every thing was possible, and they expected too much, thereby revealing their political naivety, because they did not take into account the hostility from Labor, who wanted proposed amendments debated in the Parliament, and from the Nationalists, who did not have absolute power in the Parliament. By June 1923, the New-Staters realized they could not secure a major revision of the Constitution, and resolved to press for amendments only for Chapter VI.

The 1922 Federal election had resulted in additional New-Staters being elected to the Federal Parliament, where they were a minority. In the previous Parliament, the ACP had won concessions from the Government in return for keeping it in office. Now the ACP was in the coalition Government, so new tactics

⁶³ *Ibid.*, p. 16.

⁶⁴ *Ibid.*, p. 17.

would be required. The third section of this chapter will explore how Thompson and Page responded when they came up against complex political structures and diverse political agendas.

Thompson wasted no time in pursuing matters in the Federal arena. As soon as the members returned to Melbourne for the next session, the ACP had a special meeting to discuss the proposals from the various New State movements for amendments to the Federal Constitution. A sub-committee, comprising Page, J.G. Latham, K.C., (a constitutional expert), Thompson and Henry Gregory (Dampier, WA) was appointed. They proposed a new Chapter VI which provided for a new State to be created with or without the intervention of the State Parliament. Thompson also formed a Federal Parliamentary New State League, whose objective was to secure constitutional amendments to facilitate the creation of new States. Although the League had twenty-one members, they were not necessarily deeply committed to the cause. The Prime Minister agreed to receive a deputation which would request the Government to bring forward a bill for a referendum on the question of amending Chapter VI.⁶⁵

Bruce met with the deputation on 18 July 1923, when Thompson outlined the New-Staters' case to Bruce. Thompson said they had approached the State Parliaments, but "up to the present, they have turned a deaf ear to our aspiration", so the deadlock should be ended by empowering the Federal Parliament to make new States. Thompson submitted a proposal for an amended Chapter VI.⁶⁶ The wording of the proposed amendments is important and must be examined so that the deficiency is clear. The proposed amendment suggested that a new State might be initiated by the presentation of a petition signed by twenty per cent of the electors of an area desiring separation. The Commonwealth would then appoint a boundaries commission. When its report was received the Parliament would determine the terms and conditions for the new State's admission to the federation. A local constitutional convention would draft a constitution, and this, together with the proposed boundaries, and the terms and conditions, would be submitted to the people at a referendum. If a majority voted in the affirmative, then the new State would be established.⁶⁷ These specific step-by-step guide-lines were a significant improvement on Section 124, but the question about the area in which the referendum would be held had not been resolved. The new proposal was open

⁶⁵ *AE*, 10 July 1923.

⁶⁶ *AE*, 24 July 1923.

⁶⁷ *Age* (Melbourne), 20 July 1923.

on the vexed issue about whether the referendum would be held in the New State area only or in the whole State. Any amendment which allowed the State to reject the creation of a new State was no step forward.

Having presented the proposal, Thompson pointed out that during the last three years the various New State movements had gained a lot of support and therefore "could not easily be dismissed". He said he hoped an attempt would be made in the next session to examine the matter and that a referendum would be held at which no other proposals were submitted.⁶⁸ The inclusion of this request was unfortunate, because it would later provide yet another excuse for delaying the desired Federal referendum. Bruce explained that there was a great divergence of opinion on the New State issue and that the wishes of the State Parliaments had to be considered. He believed "there were difficulties in the way and had to be faced", but the difficulties were not stated, or if they were stated, they were not recorded. He said "there was certainly no time this session", but the constitutional alterations could be considered by Parliament during the following year.⁶⁹ Any discussion of the amendments was postponed until 1924. The New-Staters had made no progress in the Federal arena during 1923.

Thompson told the New State Executive that he believed Bruce would redeem his promise to deal with the New State issue in 1924, and was confident a bill for a referendum would pass through the House so the referendum would be held at the next general election. Thompson thought "the Government would not give us the scheme we want", so the Movement should indicate clearly what it wanted.⁷⁰ The issue was discussed in Sydney on 28 January 1924 by an All-Australia New State Conference. Richard Windeyer, K.C., an expert constitutional lawyer, drafted a constitutional amendment which would give the Federal Parliament power to create New States with or without the consent of State Parliament.⁷¹ Although the New-Staters thought it was ideal, it was terribly flawed because it would be opposed by the States. It seems then that there was still no satisfactory proposed amendment.

⁶⁸ *Case for the New State Movement*, copy in Ellis Papers, NL, MS 1006, series 7B, box 21, folder 91; AE, 24 July 1923.

⁶⁹ *Northern Daily Leader*, 23 July 1923; AE, 24 July 1923.

⁷⁰ Minutes, NSM Executive Meeting at Glen Innes, 8 October 1923, Minute Book II.

⁷¹ See Thompson's report, attached to Minutes, NSM Executive Meeting at Ballina, 19 March 1924, Minute Book II.

So far as the New-Staters were concerned, the next step was to secure a debate in the Federal Parliament. When the Parliament assembled in June, Thompson gave notice of a private member's motion he intended moving. Thompson moved the motion on 24 July 1924:

That, in the opinion of this House, the Government should, at the earliest opportunity, introduce a bill providing for a referendum of the electors of Australia at the next general election upon a proposal to amend Chapter VI (New States) of the Commonwealth Constitution, so as to empower the Federal Parliament to create new States within the existing States, with or without the consent of the State Parliaments; such power only to be used on the petition of a fixed number of electors in any area, and only after the State Parliament has failed to take action.⁷²

Several things should be noted. Firstly, it was a private member's motion, but it should have been introduced as a Government initiative. This would be pointed out during the debate. The Cohen Royal Commission was still sitting; it had only just finished its first country tour (see chapter 5), hence the inclusion of the words: "only after the State Parliament has failed to take action". Lastly, the motion included the words: "with or without the consent of the State Parliament", in an effort not to alienate the States.

Thompson made reference to his meeting with Bruce in July 1923 and said "the Government has not taken any steps to translate that fairly definite promise into action". Thompson said he did not blame the Government because it had been busy. This was an amateur in the House, leaving himself wide open for criticism. Thompson invited the Labor Party to meet with the New-Staters to see if common ground could be found. This fulfilled the request from the 1923 Armidale Convention, but there is no evidence Labor accepted the invitation. Much of Thompson's speech covered the same issues as his 1923 speech. He said the Parliaments in three States had referred the New State issue to the Federal Parliament, so it was appropriate for the issue to be acted upon. He then spoke of the need for further subdivision in order to counteract centralization, and the need for more emphasis on primary production to reduce the national debt. Lastly, he argued that his scheme was better than Labor's unification policy, and he read an article from a magazine showing that unification in South Africa had failed.⁷³ His time expired before he could complete his speech.⁷⁴ It was a most unimpressive performance and was wide open for criticism.

⁷² CPD, 24 July 1924, vol. 107, p. 2452.

⁷³ 'The Provincial Experiment', *Round Table*, September 1923.

⁷⁴ CPD, 24 July 1924, vol. 107, pp. 2452-62.

Speaking in reply to Thompson's motion, M.F. (Frank) Forde (Labor, Capricornia, Qld.) said he was disappointed Page had not formulated a bill and wanted to know why. Page interjected, saying that the members had turned down the Convention Bill, and Forde replied: "He [Page] has been prevented from bringing forward a bill by his leader or those who are behind the Nationalist Party. ... Eighteen months have now lapsed and nothing has been done". Forde said it was "the duty of the Government to formulate the necessary legislation, and not to leave it to a private member". He said Bruce was the leader of the National Party which had won office on a definite pledge of constitutional reform, and he should have been aided by the Country Party. Forde contended that the five Country Party Ministers "could have forced the Government to keep its election promises". He said the Government had not expressed its opinion and "there had been no explanation offered as to why action has been delayed". Forde agreed that the Constitution was in urgent need of amendment and suggested that the "matter should not be dealt with piece-meal" but rather, proposals should be submitted to the Federal Parliament for remodelling the Constitution.⁷⁵ The time allowed for the debate expired before a vote was taken. Forde's speech was far superior to Thompson's. Both members had urged the House to ensure the Government would take up the issue of constitutional reform, especially New States. Forde rejected the excuse that "the Government had been busy" and he highlighted the failure of Page and the ACP to do anything to advance the New State cause. Forde's criticisms were valid and must be examined.

Having won office by pledging a convention, Page was criticised that almost two years had passed but he had done nothing about the convention. There had been an ominous start to the Bruce-Page Government because the Governor-General's speech in June 1923 contained no reference to constitutional reform.⁷⁶ In July, Bruce told Thompson and the delegation of New-Staters that they would have to wait until next year. Well, next year had come, and Thompson moved his motion, but nothing came of it. All this added a hollow ring to the new ACP platform which was adopted on 21 July 1924 and which included a plank: "To submit to the electors a referendum to amend the Commonwealth Constitution so as to vest in the Federal Parliament the power to initiate the creation of New States".⁷⁷ Hughes drove home the point in Parliament in August 1924, when he

⁷⁵ *Ibid.*, pp. 2462-70.

⁷⁶ *CPD*, 13 June 1923, vol. 104, p. 2292.

⁷⁷ *Federal Political Platform of the Australian Country Party as adopted at a meeting at Melbourne on 21 July 1924*, copy in Ellis Papers, NL, MS 1006/31-1.

argued that since a convention was on the Government's platform and the Government was elected, then there must be a majority in favour of the convention. He asked rhetorically: "Where are the New States, what steps have been taken to form them?"⁷⁸ Senator Albert Gardiner (Labor, NSW) offered his interpretation: "Perhaps the Treasurer [Page] has now reached the height of his ambition, and there is not the same necessity for new States".⁷⁹ Had Page used New States as a catchcry for electoral victories and to secure the Deputy Prime Ministership?

Two interpretations emerge. On the one hand, holding a convention was a plank on Page's election platform, and he had been elected, but had not fulfilled his election promise. It seems that once he was in the Government, Page found his advocacy of New States an embarrassment to the Nationalists and did nothing to help the cause. It would seem that Page had used the New State issue as a catchcry for gaining electoral victories. This view is accurate, but very simplistic.

Page did not regard the Country Party as some New-Staters did, simply as the vehicle for their cause. The New States issue was but one plank on the party's platform, and Page was too astute to risk all to achieve it. Politics is about winning power and holding it, so workable strategies have to be employed, to translate ideals into political reality. This being the case, then several reasons can be advanced for Page's reluctance to push Bruce on the issue. Clearly, it was a problem for the Nationalists, and Page was unwilling to force an issue which would threaten the coalition's stability. There was the problem of the wording. Any amendment which would deprive the States of their voice in allowing the separation of part of their territory would offend the States. Given that the Nationalists were in Government in NSW, Bruce would have been most anxious not to offend them. The NSW Nationalists were far from enthusiastic about the New State, as will be shown in chapter 4. The Nationalists, as a party, had never shown burning enthusiasm for the issue, so Bruce would have encountered opposition from within his own party if he had tried to appease Page. Thus, for the sake of the coalition it was best if the New States issue was abandoned. Moreover, the Federal Parliamentary debate in November 1921 had shown that party attitudes on the issue had hardened and now there would be little chance for success. In addition, as Ellis has noted, the Labor Party saw the issue a chance to split the ACP and the Nationalists, and were prepared to support any Nationalists who

⁷⁸ CPD, 7 August 1923, vol. 103, p. 2229.

⁷⁹ CPD, 8 August 1923, vol. 104, p. 2292.

raised obstacles to the New States issue.⁸⁰ This was real politics in the complex political structures and diverse political agendas of the Federal arena, not idealistic aspirations. In short, the New-Staters did not have the numbers to force the issue. Accordingly, it was not surprising that the pragmatic Page did not push Bruce.

Ellis suggested there was some evidence that the Bruce-Page Government, and certainly Page himself, examined various proposals. These concerned various alternative means of approach such as the constitutional session forecasted by Bruce in 1923, the revival of the constitutional convention and a referendum, or a royal commission to review the Constitution.⁸¹ None of these seemed to offer a way forward so it was easier to do nothing about New States but to make great strides in introducing other legislative reforms which had the united support of the ACP and the Nationalists.

The Bruce-Page Government had proceeded with its massive legislative programme which sought State co-operation on many issues, including duplication in Federal and State taxation, the whole subject of Commonwealth-State financial relationships, the co-ordination of borrowing, acceleration of immigration, national roads development, standardization of electrical power schemes, co-ordination of health activities, joint electoral rolls, unification of collection of statistics, the application of science to industry, uniform railway gauges, the River Murray Agreement, and industrial powers.⁸² While awaiting the nebulous New State, Page was actually securing the vital developments he had gone into Parliament to achieve.

Just the same, Page was criticised personally for his failure to use his balance of power to advance the New State cause, especially when he was the Acting Prime Minister between September 1923 and March 1924 while Bruce attended the Imperial Conference. Interestingly, Page had to reply to the petition from Lismore to the King, (via the Right Honourable, the Prime Minister), seeking separation.⁸³ As Acting Prime Minister, Page replied: "the Constitution already makes adequate provision for New States" and the NSW Parliament would have to

⁸⁰ Ellis, *op. cit.*, p. 107.

⁸¹ *Ibid.*, p. 111.

⁸² Ellis, *op. cit.*, p. 101; Edwards, *op. cit.*, p. 94.

⁸³ Lismore City Council to the Prime Minister, 13 November 1923, AA, folder E327/1/2 D110/3/118. Page was the Acting Prime Minister.

take the first steps.⁸⁴ In essence this letter repeated what Bruce had told the NSW Parliament in June 1923, that it was official Commonwealth policy that the State Parliament would have to initiate the procedure for separation by "affirming the principle and fixing the boundaries, area, and terms of partition" before the Commonwealth could become involved. It seems that in the Federal arena, Page would do nothing for the New-Staters, and this was a "major volte-face", as Belshaw termed it.⁸⁵

During 1924, Bruce had an excellent excuse for the lack of action on the New State issue. Bruce said: "The Federal Government was waiting to see the outcome of the NSW Royal Commission".⁸⁶ Bruce was using the current New State activity in NSW as an excuse to defer action in the Federal Parliament. By December 1924, when the New State Executive held its last meeting for the year, there was no significant mention of any activity - past, present or future - in the Federal arena. At best, Thompson proposed that the question of another northern convention should be discussed, because one should be held before the final session of the Federal Parliament in 1925.⁸⁷ Despite the lack of co-operation from Page and Bruce, Thompson, the eternal optimist, wanted to make another approach to the Federal Parliament.

In 1925, as will be shown in chapter 6, the Cohen Royal Commission's adverse report led the New State Executive to resolve not to knock on the NSW Parliament's door any more. So far as the New-Staters were concerned, "every means had been taken to test the State machinery for establishing New States", but "a typical State Parliament did not entertain serious notions" for subdividing its existing territory, so a "sympathetic court of appeal" was needed, and the only one available was the Federal Parliament, because it had the power to place the issue before the Australian people. The Executive resolved to urge the Federal Government to amend the Constitution by inserting a new Section "empowering

⁸⁴ Page (Acting Prime Minister) to Lismore City Council, 8 December 1923, AA, folder E327/1/2 D110/3/118.

⁸⁵ James Drummond Belshaw, 'Decentralization, Development & Decent Government: The Life & Times of David Henry Drummond, 1890-1941', unpublished manuscript, Armidale, 1983, p. 158.

⁸⁶ 'Notes on a deputation from Central Queensland New State League which waited on the Prime Minister, at Rockhampton on 25 October 1924', Bruce Papers, AA, A120/4/13, folder E327/1/2.

⁸⁷ Thompson's report, attached to Minutes, NSM Executive Meeting at Armidale, 15 December 1924, Minute Book II.

the Federal Parliament to create New States upon approval by a majority of electors in the area voting upon the question".⁸⁸ Future New State activity would have a single thrust only.

Federal Parliament resumed in June 1925 for the last session before the elections. A meeting of the Parliamentary New State Committee was held and formed a deputation to meet with the Prime Minister to request the Government to introduce a bill to take a referendum at the next general election on the straightout question of amending Section 124 of the Constitution.⁸⁹ Bruce and the New-Staters met on 3 September 1925 and discussed the proposal for an enabling bill to amend the Constitution, but there was no progress. Bruce said: "it was improbable that the question would be brought down at the present session".⁹⁰ Thompson had placed a motion on the business paper, but, together with other motions, his was not discussed. Bruce claimed that the increasing industrial crisis had made it impractical to proceed with the referendum. Within a short time Parliament was dissolved and campaigning began for the November elections.⁹¹ The 1923 Armidale Convention had made it clear that the referendum for amending Chapter VI was not to be taken with any other issue, and Bruce used this as an excuse to reject the call from six Country Party members for the referendum issue to be dealt with before calling an election.⁹² Once again Bruce had deferred a bill for the referendum, and had Page's full support.

During the election campaign, Thompson explained the situation. He said that although the amendment had been drafted, there could be no referendum at this general election because "the constitutional issue would be lost sight of amid the more immediate Communistic issue, and the result would have been a set back for the New-Staters".⁹³ It is important to note that Thompson seemed not to understand that a referendum bill would not have been passed in the Parliament, because the New-Staters did not have the numbers to get over the first hurdle.

⁸⁸ See Thompson's report, and Minutes, NSM Executive Meeting at Inverell, 3 August 1925, Minute Book II; Thompson to Bruce, 11 August 1925, and Bruce to Thompson, 31 August 1925, copies in Ellis Papers, NL, MS 1006, box 38.

⁸⁹ See Thompson's report, attached to Minutes, NSM Executive Meeting at Inverell, 3 August 1925, Minute Book II.

⁹⁰ *AE*, 8 September 1925.

⁹¹ See Graham, *op. cit.*, p. 232.

⁹² *Tweed Daily*, 3 November 1925.

⁹³ *AE*, 16 October 1925.

Thompson believed all was not lost. The "Communitistic issue" had become such a concern for Bruce that in his policy speech he announced that if he was returned to Government he would hold a constitutional session to consider the matter of relations between the Commonwealth and the States, especially arbitration. Bruce ruled out an elected convention because it was "impractical", but believed the Parliament would be "the proper body" to frame amendments which would be submitted to the people by referendum. Thompson believed the New State question would also be considered.⁹⁴ A new era was about to begin.

In his policy speech, Bruce gave prominence to the industrial strife, and pledged that his government would work to assure the smooth working of the industrial arbitration system and foreshadowed an overhaul of the arbitration Acts. Page said much the same, but also expounded the financial achievements of the coalition government, in particular its success in reducing Commonwealth expenditure with the resulting reduction in direct taxes. There was no mention of the New States issue.⁹⁵ Page and Bruce had gone cold on this divisive issue. The Labor leader, Matthew Charlton, rejected the Government's claim that the main issue was industrial strife, and claimed that Bruce had brought on the election because of the trouble within the coalition when some of the ACP members had demanded action on the New States issue.⁹⁶ Sawyer has noted that there certainly was ACP discontent and that the industrial strife was "fortunate for the coalition since it distracted attention from intra-party grievances".⁹⁷ Given that neither Page nor Bruce had included New States in their policies, there would be little chance of the issue making progress in the new Parliament, despite Thompson's optimism.

The Federal election on 14 November 1925 resulted in a sweeping victory for the non-Labor parties. The Nationalists won thirty-eight seats, the ACP won twelve, Labor won twenty-three and there were two Independents.⁹⁸ The Nationalists still needed the ACP. In northern NSW, Page won Cowper, Thompson won New England, Roland Green won Richmond and C.L.A. Abbott

⁹⁴ *Loc. cit.*

⁹⁵ Sawyer, *op. cit.*, pp. 257-8.

⁹⁶ *SMH*, 10 October 1925.

⁹⁷ Sawyer, *op. cit.*, p. 259, fn. 13.

⁹⁸ *Ibid.*, p. 259.

won Gwydir (see Map 1.4). Abbott was one of the clan from the Upper Hunter, and had been educated at The King's School, Parramatta, before running away to Queensland where he became a cane cutter. He served in the Great War, returned with the rank of captain, and became a farmer at Kootingal, near Tamworth. Encouraged by Thompson, Abbott contested the State seat of Namoi in March 1922, but was unsuccessful. In 1925 he stood as an endorsed ACP candidate for Gwydir and defeated the sitting Labor member, Lucien Cunningham.⁹⁹ Abbott's victory resulted in all the Federal electorates in the New State area being held by the ACP.

The Government turned its attention to three areas of constitutional adjustment - the control of monopolies, the extension of Commonwealth power in the field of industrial regulation and the negotiation of the Financial Agreement with the States. Only the latter was successfully amended (as noted later). During 1926 the Government attempted to put an end to industrial chaos by obtaining full power for the Commonwealth to arbitrate in industrial disputes. Under the Constitution, Commonwealth authority in industrial legislation was limited to interstate disputes. In February 1926, the Senate introduced bills for a referendum to amend the Constitution to give the Commonwealth additional powers in industrial affairs, and the House of Representatives passed the bills.¹⁰⁰ Though the ALP supported the measures in Parliament, in the State sphere the ALP split, and both questions were rejected in four States at the Federal referendum on 4 September 1926.¹⁰¹ In terms of an effort at constitutional amendment, bills had been drafted, tabled, debated and passed by a majority in both Houses; the reformers had got over the first hurdle. The majority of electors in a majority of the States had rejected the proposed amendments; the reformers had been unable to get over the second hurdle.

Bruce had a good excuse for not including the New State question with the industrial arbitration issues at the referendum. Frank Forde had sent Bruce the motions from a meeting of the New State League of Central Queensland, objecting

⁹⁹ C.L.A. Abbott, 'Family Background: The Upper Hunter Abbotts', unpublished manuscript, pp. 273-81, Abbott Papers, NL, MS 4744, box 9.

¹⁰⁰ *Ibid.*, pp. 280-2.

¹⁰¹ NSW and Queensland voted in favour of both amendments; Victoria, SA, WA, and Tasmania voted against both. The majorities were also against.

to the New State referendum being held conjointly with the forthcoming referendum for industrial powers.¹⁰² It seems Bruce was most willing to oblige.

Meanwhile, restless New-Staters in the House had formed themselves into the Parliamentary Constitution Amendment League in March 1926.¹⁰³ Thompson succeeded in having a motion discussed in the House, conditional upon his agreeing to accept an amendment.¹⁰⁴ Thompson moved this motion on 27 May 1926:

That, in the opinion of this House, a referendum throughout Australia should be taken during the life of the present Parliament, on the question of amending the Federal Constitution, so as to give the Commonwealth Parliament power to establish new States, on such terms and conditions as it may think fit, within the boundaries of existing States, with or without the consent of State Parliaments.¹⁰⁵

The motion was similar to that in July 1924, but the new motion omitted "such power only to be used on the petition of a fixed number of electors in any area, and only after the State Parliament has failed to take action". The new motion retained the wording "with or without the consent of State Parliaments", thus indicating that the New-Staters had still not resolved this vexed issue.

Thompson made reference to his 1924 motion, said he would not retrace that ground, then retraced it. He gave an outline of the Cohen Royal Commission and its report, concluding that the present machinery had been tried but had failed. He closed his speech after submitting the schemes devised by Latham and Windeyer, and urging the House to hold a referendum to amend the Constitution.¹⁰⁶ This performance was far better than his first.

Roland Green from Richmond seconded the motion. He said that experience had shown that Section 124 was "not working" and claimed that it was "well known that no State Parliament will ever agree to parting with a rich area of land". He suggested eight reasons why it was desirable to subdivide Australia. He said new States would encourage competition among States and result in lower

¹⁰² Forde to Bruce, 28 May 1926; Bruce to Forde, 9 June 1926, Bruce Papers, AA, A 120/4, E 327-1-2.

¹⁰³ *Argus* (Melbourne), 5 March 1926.

¹⁰⁴ See Thompson's report, attached to Minutes, NSM Executive Meeting at Tenterfield, 2 May 1927, Minute Book II.

¹⁰⁵ CPD, 27 May 1926, vol. 113, p. 2375.

¹⁰⁶ *Ibid.*, pp. 2375-82.

prices for consumers; new developmental works would be established, especially railways; those areas on the boundaries would be developed; decentralization would mean larger towns, more efficient government and administration, and reduced costs of living. These were assumptions rather than facts and many of his claims could easily be refuted. He called on the representatives from Tasmania and Western Australia to support the call for a referendum, so that NSW would be subdivided and thereby would reduce its numbers in the House to ensure a fairer distribution of seats. He wanted the Federal Parliament to have the power for subdivision which the Imperial Parliament held before federation.¹⁰⁷

The debate resumed on 24 June 1926. Frank Forde wasted no time in calling on Page "to declare the policy of the Government on the matter". Forde said Page had "occupied the second position in Cabinet for four years" and had "done nothing to further the New State movement in a practical way". Forde went on to say that "the composite Government, with an overwhelming majority of supporters in this and the last Parliament", could at any time during the last four years have submitted proposals for the amendment of the Constitution to facilitate the formation of new States, "but it has done nothing". This was irrefutable. Forde wanted to induce Page to declare "what he intends to do".¹⁰⁸ Once again Forde had criticised Page and the ACP for its failure to do anything in the House to further the New States cause.

Abbott made a brief speech in which he praised Page, and then duly moved the expected amendment:

That the question of the method of establishing new States should be considered in conjunction with other constitutional questions at the proposed constitutional session of this Parliament.¹⁰⁹

Subsequently, the amendment became the motion and was carried. The House had resolved that the New State issue would be dealt with at the constitutional session in Canberra the following year.

Forde succeeded in getting a response from Page. Having expressed his regret that Forde had "imported into this debate a great deal of personal bitterness" and having assured the House he "had no intention of following him along those lines", Page then launched into a personal attack on Forde. Page offered an

¹⁰⁷ *Ibid.*, pp. 2382-6.

¹⁰⁸ *CPD*, 24 June 1926, vol. 113, pp. 3481-8.

¹⁰⁹ *Ibid.*, p. 3489.

explanation for the Government's delay, saying the Labor Party had challenged Bruce to go to the polls, so the Government had "accepted the challenge" and therefore the life of the previous Parliament was cut short. There was an element of truth in this, but it was not the full truth. He offered no explanation for Thompson having to introduce the motion, but sidestepped the issue, saying: "The Government has already announced that as soon as the new Parliament meets in Canberra it will have an opportunity to discuss proposed alterations of the Constitution". Page assured the House that "the New States issue will be one of the matters discussed".¹¹⁰ This was an astute politician at his best.

Hughes spoke and attacked Page and the ACP for their failure to take any action in the matter "after three years and four months of office, and six years of unremitting public effort".¹¹¹ Once again Page was ridiculed for advocating New States but doing nothing to achieve them. During the debate, Labor members indicated their willingness "to defer further consideration until we can have a constitutional session".¹¹² Thompson accepted Abbott's amendment and hoped "that the Government will not regard the carrying of this amendment as the shelving of the question".¹¹³ Whether it would, remained to be seen, but past experience would offer little reason for hope. Once again the issue had been deferred until another time but at another place. Thus, by the end of 1926, the New-Staters were no further ahead in their quest for a constitutional amendment.

On 26 May 1926, Bruce had announced that the seat of Government would be transferred to Canberra in just under a year.¹¹⁴ Throughout 1926 there were frequent suggestions in Parliament that the first session to be held in the new capital in 1927 should be given to discussing constitutional problems with a view to submitting recommendations at a subsequent referendum. Following the defeat of the commerce and industrial powers referendum in September 1926, the Government proposed the appointment of a parliamentary select committee of members, eight from the House of Representatives and four from the Senate to

¹¹⁰ *Ibid.*, pp. 3490-2.

¹¹¹ *Ibid.*, pp. 3492-4.

¹¹² *Ibid.*, pp. 3496-9.

¹¹³ *Ibid.*, pp. 3500-3.

¹¹⁴ The new Parliament House was opened on 9 May 1927.

review the working of the Constitution.¹¹⁵ Bruce offered to include four Labor members on the Committee, but the ACP refused to participate unless it had six or seven members. The offer was not increased, so the ALP declined to co-operate and the Government abandoned the proposal.¹¹⁶ Having failed to secure a select committee, the Government decided to appoint a royal commission "to take evidence and report fully upon any suggested alterations of the Constitution".¹¹⁷

Between 1919 and 1926, the Government had switched from a referendum, to a proposed convention, to a constitutional session. In 1927, the Government tried to appoint a select committee, but Labor would not co-operate, so the Government now opted for a royal commission. Another option - a parliamentary constitutional session - had been overlooked, even though it had been desired by all three parties. No explanation was given for not holding the constitutional session. It seems the Government was not serious about the amendments and proposed a royal commission because it would look as though something was being done, when all that was happening was that time would be passing. Bruce was still stalling and he had Page's full cooperation. A new era was about to begin.

This section of the chapter will analyse the royal commission on the Constitution, which would be the high point of the New-Staters' activity in the Federal arena. In April 1927, Cabinet discussed holding the royal commission. A report from the Attorney-General was discussed in June, when Cabinet considered names of possible commissioners.¹¹⁸ The Government offered a seat on the Commission to the deputy leader of the ALP, James Scullin (Yarra, Victoria), but he declined the offer. The ALP contended that if the Government wanted a Labor representative on the Commission, then the party should choose him. Moreover, the ALP wanted constitutional amendments to be considered at a special session of Parliament, and claimed Bruce had broken his promise to have the constitutional session. Accordingly, the ALP was strongly opposed to the royal commission and

¹¹⁵ Secretary to Cabinet / Cabinet Secretariat [1], *Bruce-Page Ministry - Volumes of Minutes and Submissions, 1923-29*, volume 2, 5 February 1926 - 27 September 1927, (hereafter *Cabinet Minutes*), AA, Microfilm CRS A2718, 28 February 1927.

¹¹⁶ See Thompson's report, attached to Minutes, NSM Executive Meeting at Tenterfield, 2 May 1927, Minute Book II.

¹¹⁷ *Cabinet Minutes*, 26 April 1927.

¹¹⁸ *Cabinet Minutes*, 1 & 15 June 1927; also, see Latham Papers, NL, MS 1009/41/16-19.

declined to have any association with it. In particular, the ALP refused to allow any Federal members to take part.¹¹⁹

Cabinet chose the Commissioners on 26 July 1927, when fees and expenses were also decided.¹²⁰ A personal friend of Latham's, Professor John Peden, K.C., MLC, was appointed the chairman; the other Commissioners were Senator P.P. Abbott (ACP, NSW), E.K. Bowden, Sir Hal Colebatch, T.R. Ashworth, D.L. McNamara, and M.B. Duffy. Peden was Dean of the Faculty of Law, at Sydney University, and a permanent Royal Commissioner on law reform in NSW; he had extensive experience in parliamentary matters, constitutional law and legal drafting, so he was eminently qualified. Abbott had been a Senator since 1925; he was a lawyer and had been the member for New England from 1913 to 1919; he was the president of the Northern New State Movement. Bowden, another lawyer, and a Nationalist, had served in the House for many years and was currently the member for Parramatta; he had been the Minister for Defence 1923-25. Colebatch, a former Premier of Western Australia, had been a former Agent General for WA in London. Ashworth was the president of the Victorian Employers' Association and was a very prominent citizen. McNamara, a Victorian MLC, was the general secretary of the Federal Labor Party; his appointment was resented by the ALP, as was that of Duffy, who was actively engaged in the Labor movement in Victoria.¹²¹

Latham said the Commission was constituted on the basis that there should be a lawyer as chairman, with a representative of each Federal political body which was willing to be represented and four other men who were not members of the Federal Parliament. Thus, the Commission included only two members of the Federal Parliament, a Nationalist and an ACP member. Latham said Cabinet had considered composing the Commission wholly of lawyers but had rejected the idea. He said: "Questions of law were of first importance, but matters of interstate policy and business must receive recognition in any recommendations that might be made". He believed "lay assistance was indispensable in matters which lawyers

¹¹⁹ *Age* (Melbourne), 27 July 1927; *Argus* (Melbourne), 28 July 1927.

¹²⁰ The chairman would be paid £200 per month; non-parliamentary members, £5 5s per sitting; all members' travelling expenses were at the rate of £2 2s per day while away from home on Commission business. *Cabinet Minutes*, 26 July 1927.

¹²¹ *Herald* (Melbourne), 5 August 1927.

could not be regarded as experts".¹²² The Commission appeared to be broadly representative.

The Commissioners were given specific instructions about areas in the Constitution which should be reviewed, including Chapter VI. While citing the problems which had arisen under the existing provisions, Garran, the Solicitor-General, totally ignored the long history of agitation by various New State movements and their failure to compel State Parliaments to initiate separation. Rather, Garran gave the example of how Section 123 was hindering a minor re-adjustment of the boundary between NSW and the Federal Capital Territory.¹²³ It would seem that the New State agitation between 1920 and 1927 had gone unnoticed. Given that the terms of reference included a review of Chapter VI, it seemed that at long last something might be achieved. The Royal Commission on the Constitution, or the Peden Commission as it was styled, first met on 19 September 1927 at Canberra.¹²⁴

The appointment of the Royal Commission was a boost to the New-Staters. In October, Thompson told the Executive that Dr Radford (Anglican Bishop of Goulburn) and Richard Windeyer had already submitted proposals for an amendment which would vest the Federal Parliament with power to establish new States. Thompson said the Commission wanted to hear evidence from the Northern New State Movement so they would need a definite proposal to recommend to the Commission.¹²⁵

For the first time Thompson showed he saw the complexity of the issues. He said the amendment would have to "overcome the entrenched hostility of the States" without infringing upon their "just rights to prevent the continual separation of their territory by an unsympathetic central authority at the behest of a few local agitators". He recognised that neither the States nor the Commonwealth would agree to an amendment which excluded the approval of the parent State. He said the States would insist on the amendment specifying a Statewide referendum, but there was the difficulty of centralized capital cities, which, if hostile, could

¹²² *Argus* (Melbourne), 8 August 1927.

¹²³ 'Instructions to Counsel', Garran to Nicholas, 24 August 1927, AA, 29/1543.

¹²⁴ *SMH*, 20 September 1927.

¹²⁵ See Thompson's report, attached to Minutes, NSM Executive Meeting at Glen Innes, 25 October 1927, Minute Book II.

outvote the area desiring separation.¹²⁶ At long last Thompson had seen the complexity of the issues. The problem facing the Executive was to compose an amendment which would safeguard the rights of States and at the same time prevent the States from unjustly opposing the formation of New States. It was an awesome task.

It was probably too late to find the ideal solution. The issue should have been settled before Federation. The Federal Parliament should have been given the power the Imperial Parliament had held for subdivision, thereby taking away from the States every right to interfere or hinder. Any post-Federation proposal which would deprive the States of their voice in the matter was bound to offend the States, and to be strongly opposed at a Federal referendum.

Thompson tabled an amendment which proposed a referendum in the whole of the State. After discussion, the Executive resolved to aim for an amendment which provided for a referendum in an area only, but not in the whole State.¹²⁷ It was pure folly, because Richard Windeyer had already submitted a proposal which made provision for a Statewide referendum. The Commissioners would be obliged to make a ruling and they would favour a Statewide referendum because it would uphold States' rights. One again, the New-Staters had revealed their political naivety.

Thompson appeared before the Peden Commission at Sydney in February 1928 and outlined a history of the New State agitation and activities, to highlight the "dissatisfaction with the present constitutional provisions relating to new States". He said the New-Staters had been unable to shift the State legislatures, "which have sheltered behind the present Constitution to block all further subdivisions of their territories". He claimed the northern New-Staters believed that it was "useless persisting in an agitation to secure the sanction of the State legislatures" and wanted "to secure better machinery for the proper testing of the merits of separation". He asked the Commission to wipe out the existing Chapter VI and "to install a completely new chapter" with a step-by-step guide for creating new States.¹²⁸ Thompson laid before the Commission the Executive's proposal.

¹²⁶ *Loc. cit.*

¹²⁷ *Loc. cit.*

¹²⁸ *Evidence of the Royal Commission on the Constitution together with Appendixes and Index*, (Peden Commission), Canberra, 1929, (hereafter *Evidence*), pp. 1131-3.

Early in April 1928, the Executive finalized preparations for the Commission's hearings in Armidale. Thompson told the Executive: "We must oppose suggestions for the referendum to be in the whole of the State. The Commission seems to favour the whole State".¹²⁹ The Royal Commission sat in Armidale on 16 April and asked the witnesses what had been done in the past to try to cause NSW to initiate separation, what the northern movement thought should be done, and what powers should be given to the Federal Parliament for the creation of new States. Evidence was given by: Colonel White of Guyra and Philip Wright from Wollomombi (near Armidale), two prominent graziers; William Ager, an orchardist from Grafton; and Canon Rupert Fairbrother, an Anglican clergyman who had served in the north for twenty nine years.¹³⁰ These men had been active New-Staters for many years, and gave evidence about various attempts the New-Staters had made since 1920.

The Commission made its report in September 1929 and among other things recommended an amendment to the Constitution to give the Commonwealth clear power to create new States with or without the consent of the State legislatures. The amendment provided that upon petition by twenty per cent of the electors of an area desiring self-government, the Commonwealth Parliament should create a boundaries commission, call a convention to draft a local constitution which would include provisions for the transfer to the new State of essential assets, and hold a referendum of the whole State. As expected, the Commission had favoured a Statewide referendum, but excluded a simple majority. The amendment provided that if sixty per cent of the votes cast in the area concerned, and forty per cent of the votes in the whole State, were in favour of the proposal, then the Commonwealth would have the power to establish the new State.¹³¹ It was any interesting solution, but flew in the face of democracy because it ignored the basic fact that a Statewide vote of forty per cent in favour actually meant sixty per cent against.

The Report made no reference to the influence of Section 105A, a constitutional amendment which had been approved at a referendum held in conjunction with the 1928 general elections. Details of the history of Section 105A

¹²⁹ See Thompson's report, attached to Minutes, NSM Executive Meeting at Tenterfield, 2 April 1928, Minute Book II.

¹³⁰ *Evidence*, pp. 1451-67.

¹³¹ *Report of the Royal Commission on the Constitution together with Appendixes and Index*, (Peden Commission), Canberra, 1929, pp. 256-9.

are given elsewhere.¹³² Suffice to note that the issue of the public borrowing system of the Federal and State Governments was not resolved at the federation conventions and was one of the questions Page wanted to settle. At the Premiers' Conference in 1923 the Commonwealth proposed the formation of an Australian Loan Council as the sole authority for Australian Government borrowing, and also proposed the creation of a National Debt Sinking Fund. During 1926 the States and the Commonwealth in conference drafted a Financial Agreement. On 14 December 1927, it was introduced for Commonwealth Parliamentary approval, and subsequently an amendment of the Constitution was sought to give the Agreement constitutional status, firstly by empowering the Commonwealth to make such agreements, and secondly, by validating financial agreements made before 1928. In terms of an effort at constitutional amendment, a bill was drafted, tabled, debated and passed by a majority in both Houses, so the reformers had got over the first hurdle. A referendum was held with the Federal general elections on 17 November 1928, and was carried in all States with a total majority of 2,237,391 to 773,552. The reformers had got over the second hurdle; they had secured a majority at the referendum. Subsequently, an enabling bill was passed in Parliament. Under the provisions of Section 105A, the consent of all the States and the Commonwealth, or a constitutional amendment, is required to destroy the Loan Council or to restrict its authority. Thus, Section 105A has relevance to the formation of New States.

In 1932, during a new phase of New State activity, Page sought legal opinion on the relevance of Section 105A to the formation of new States. The Attorney-General, A.J. McLachlan, received advice from "four distinguished pundits", Wilbur Ham, W. Harrison Moore, Sir Edward Mitchell and Justice H.S. Nicholas. McLachlan told Page: "the weight of the legal view seems to be against our ability to form new States without the concurrence of all parties to the Financial Agreement".¹³³ It seems then that an amendment of Section 124 would not be sufficient; the New-Staters would also need the agreement of all the States and the Commonwealth. There is no evidence, however, to show that in 1929 the issue was considered.

The Report was made just as the Bruce-Page Government fell. The coalition had been returned at the elections in November 1928 but the writing was

¹³² Page, *op. cit.*, pp. 126-37; Sawyer, *op. cit.*, pp. 262, 265, 305; Ellis, *op. cit.*, pp. 105-7.

¹³³ McLachlan to Page, 16 June 1932, copy in Ellis Papers, NL, 1006, series 7B, box 21, folder 89.

on the wall.¹³⁴ The Nationalist had won thirty seats and the ACP had won twelve; Labor had gained eight seats and now had thirty-one; and there were two Independents. There was discontent in the Government's ranks and its power to govern was conditional upon conciliating all sections of its supporters.¹³⁵ Page's budget increased the entertainment tax and caused public resentment, which Labor capitalized on when the Government introduced measures to transfer arbitration powers to the States, leaving the maritime industries alone in Federal hands. The bill was carried, but Hughes moved that the measure be postponed until a referendum was held. The motion was carried, the Government was defeated and Bruce sought a dissolution.¹³⁶ The subsequent elections on 12 October 1929 resulted in a sweeping Labor victory, with forty-seven seats, while the Nationalists forces had been halved to fourteen seats; the ACP had lost one seat and were returned with eleven.¹³⁷ The Bruce-Page Government was over.

The new Labor Government of Prime Minister James Scullin introduced a referendum bill to allow amendments to the Constitution by Federal Parliament without the need for a referendum. Scullin said that the Peden Royal Commission had cost £18,700 and the new Government was taking "an early opportunity to discuss the Constitution". Scullin highlighted some of the Constitution's inadequacies, traced the history of attempts to amend it, and argued that "every other Parliament in the Empire", Canada excepted, "had full powers" to amend their constitutions.¹³⁸ The Bill offered opportunities to the New-Staters.

Thompson said that "no other subject that has come before the Federal Parliament during the years I have been a member of it has interested me more greatly". So far as he was concerned, the Bill was "the most momentous issue to be placed before the people" since Federation. He was concerned, however, that if the Bill was passed it would mean the end of the federal system, and he feared that Parliaments would amend the Constitution without the issues being referred to "the people at general elections" for popular approval of Parliamentary proposals. He feared that the people were being "asked to sign a blank cheque". He suggested

¹³⁴ Again, Page's policy speech made no mention of New States, but praised the Bruce-Page Government's financial record.

¹³⁵ Sawyer, *op. cit.*, pp 303.

¹³⁶ Edwards, *op. cit.*, pp. 169-190.

¹³⁷ Ellis, *op. cit.*, pp. 159-60.

¹³⁸ CPD, 14 March 1930, vol. 123, pp. 177-87.

that instead of the current bill, the Government should introduce "an amendment to give the Commonwealth Parliament power to divide the existing States".¹³⁹ John West (Labor, East Sydney) taunted Thompson, suggesting that "the high priest of the new States crusade" should support the Government's bill because it would make it "comparatively easy for him to push ahead with his New State movement" and would enable him "to realize his lifelong dream".¹⁴⁰ Page said "we are in a unique position" because this was the first occasion when constitutional amendments had "been discussed immediately after an exhaustive investigation by an impartial body". He agreed that there was a need for "a readjustment of the Constitution" but he was concerned because the Government had "not clearly enunciated" what adjustments were required, and therefore, he had "no option but to oppose the Bill unhesitatingly". He suggested that the ten recommendations in Peden's report "should form the subject of a bill"; he believed they "would be adopted overwhelmingly by the people". Page argued that increasing the number of States was an "essential preliminary to a redistribution of Federal and State powers". He urged that a proposal to give effect to the Peden Commission's recommendations on New States be "put before the people" at a referendum.¹⁴¹ While in Government, Page had been silent in the Parliament on the New States issue, but now that he was in the Opposition, he again became a staunch advocate.

The Treasurer, Edward ('Red Ted') Theodore (Dalley, NSW), pointed out an inconsistency in Page's thinking. Page had opposed the Bill because the Government had not indicated what constitutional changes it would make, but Page had advocated the Parliament's right "to set up new States without the consent of existing States". Theodore also pointed out that there had not been unanimous agreement on the Peden Commission's recommendations, so it would be most unlikely that the Parliament would agree with them; submitting them to the people was out of the question.¹⁴² Page's proposals were found to be wanting.

The Constitutional Alteration (Power of Amendment) Bill was voted for by the House of Representatives on party lines, forty-two to twenty-three, on 10 April

¹³⁹ CPD, 26 March 1930, vol. 123, pp. pp. 521-29.

¹⁴⁰ *Ibid.*, pp. 529-33.

¹⁴¹ CPD, 2 April, vol. 123, pp. 759-68.

¹⁴² *Ibid.*, pp. 768-74.

1930.¹⁴³ It was paradoxical that Page and Thompson voted against a measure which, if adopted, would have allowed the Constitution to be amended, thereby allowing the New States provision to be amended by Parliament without the need for a Federal referendum. The Bill, however, was short-lived, and was defeated in the Senate on 28 May, seven for and twenty-two against.¹⁴⁴ The Opposition had a substantial majority in the Senate, where party animosities destroyed the Bill.¹⁴⁵ In terms of an effort at constitutional amendment, the Bill had been drafted, tabled, debated and passed by a majority in only one House; the reformers had not got over the first hurdle. The Peden Commission of 1927-29 and its sequel in the Federal Parliament had gained nothing for the New-Staters, and there was no prospect for the Constitution to be amended in the foreseeable future.

To sum up: between 1919 and 1930 attempts had been made to amend the Constitution and the attempts passed through various phases. From 1919, amending the Constitution was the platform of the three major parties in the Federal Parliament (Nationalists, ALP and ACP), but each party went cold on holding a constitutional convention. From June 1923, the New-Staters sought a referendum but did not want it associated with the arbitration issues, which were the subject of a Federal referendum in 1926. Subsequently, a royal commission was appointed to review the Constitution, and Chapter VI was specified as an area requiring review. The favourable report was submitted just as the Bruce-Page Government fell in September 1929. The new Labor Government tried to introduce legislation to allow the Constitution to be amended by the Parliament alone without the need for a referendum, but the Senate defeated the legislation. The New-Staters in the Federal Parliament had voted against the bill, because other issues took precedence over the possibility of the New State being secured via this method.

Of the previous writers on New State issues, only Harman attempted to analyse Page's role. Harman noted that while in Opposition, Page had strongly advocated New States, so his supporters and opponents expected him to take definite steps in that direction, but when he was in Government he was singularly inactive in the matter in the Parliament even though the issue remained a plank on the ACP's platform. Harman "could not decide" whether Page had used New State

¹⁴³ CPD, 10 April, vol. 123, p. 1157.

¹⁴⁴ CPD, 28 May, vol. 124, p. 2190.

¹⁴⁵ The Senators who had been defeated at the 1929 election did not retire until June 1930. Sawyer, *op. cit.*, p. 303; Ellis, *op. cit.*, p. 157.

agitation "for political ambition" or whether he had refrained from pushing the issue in order to "safeguard the coalition" and thereby to achieve other ACP goals. So far as Harman was concerned, Page was "a weak strategist" for not making "some token gestures to satisfy his supporters and to safeguard himself from criticism".¹⁴⁶ This assessment can be reviewed in the light shed by this chapter.

The issue can be clarified by a comparison of Page and Forde. While Page was in Opposition from 1920 to February 1923, he strongly advocated the constitutional convention, and pressured Hughes to legislate for it. While in Government, Page could not force the issue, because it was strongly opposed by the Nationalists, and he was not prepared to rupture the coalition and lose Government. Forde, who was elected to the Federal Parliament in December 1922, was in Opposition until 1929, and could criticize Page, the ACP, and the coalition for failing to further the New State cause. So, when in Opposition, members could freely criticize the Government, but the latter could only achieve what its numbers allowed it to secure. Given that the ALP and the Nationalists were opposed to New States, Page never had the numbers. It is significant that when the Bruce-Page Government was defeated in October 1929 and Page was back in the Opposition, the ACP dissident, Percy Stewart, wrote to Hughes: "No doubt Page will bring out his New State hobby horse and mount him again. He has had a long spell".¹⁴⁷ Stewart's prediction was confirmed when Page resumed his parliamentary support for New States during the 1930 debate on the constitutional amendment. For Page, the pragmatic opportunist, the New State issue was useful for making suggestions when in Opposition, and for electoral victories, which would allow him to achieve other goals while awaiting a time - if ever there would be a time - when the New-Staters would have the numbers.

Although Forde and Hughes criticised Page for his lack of action, as Harman noted, the fact is the criticism did him no real harm, especially when compared with his self-perception of other significant successes.¹⁴⁸ Page had resolved the question of how the ACP - a third party in the Parliament - could be most effective. In 1923, the ACP's conditional support strategy gave way to coalition with the Nationalists. Thus, the ACP "declared war" on the ALP, as

¹⁴⁶ G.S. Harman, 'New State Agitation in Northern New South Wales, 1920-1929', *Journal of the Royal Australian Historical Society*, vol. 63, pt. 1, June 1977, p. 43.

¹⁴⁷ Stewart to Hughes, 30 October 1929, quoted in Graham, *op. cit.*, p. 284.

¹⁴⁸ Page, *op. cit.*, p. 185.

Graham termed it, and virtually returned the Parliament to a two-party system.¹⁴⁹ Coalition had advantages for the ACP, allowing it greater influence in drafting legislation and in the administration of departments. Working with the Nationalists, the ACP secured better main roads, higher returns for dairy produce, lighter taxation on producers and workers, better post and telephone facilities, and an embargo on sugar imports.¹⁵⁰

The coalition strategy, however, also had its disadvantages. Page had won power and wanted to retain it, so he had to translate ideals into political reality. Thus, he had to abandon his push for an amendment of Section 124; the ACP could not secure tariff reductions or a compulsory wheat pool; nor prevent the sale of the Commonwealth Shipping Line. By 1929, coalition had resulted in much of the ACP's vitality draining away, and radical dissidents voted against the Government. Although the ACP and the Nationalists needed each other, there had been growing hostility within both parties, and Hughes, in particular, had frequently urged Bruce to end the coalition and to form a straight Nationalist Ministry. Given all these circumstances, Page did remarkably well.

This chapter has shown that Thompson - "the high priest of the new States crusade" - was enthusiastic and energetic but lacked political skills. In particular, there is little evidence that he understood the political difficulties or the hurdles to be overcome. Thompson's role in the New State agitation in the Federal arena was superbly summed up by Hughes when Percy Stewart was attacking the ACP for abandoning its former principles. Stewart made an exception in the case of Thompson, saying he "had continued to press his New State ideas". Hughes cracked: "Yes, like a hen with a china egg".¹⁵¹ Thompson was sincere, dedicated and tenacious, but totally unproductive.

In the final analysis, the fundamental reason why the New-Staters failed in the Federal arena was that they never got over the first hurdle, even though the ACP was in the Government.

To conclude: the New-Staters' principal thrust between 1920 and 1930 had been for an amendment of Section 124. The early 1920s were heady days for the Movement; it seemed like they were being taken seriously by the highest political

¹⁴⁹ Graham, *op. cit.*, p. 196.

¹⁵⁰ *Ibid.*, pp. 282-4.

¹⁵¹ Interview with C.L.A. Abbott, 8 August 1956, Graham Papers, NL, MS 8471/40.

forum in the country, and naive enthusiasm exceeded realistic expectations. The 1921 Armidale Convention had led some of the New-Staters to believe that any thing and every thing was possible, and they had set their sights at a major revision of the Constitution. Their enthusiasm was tampered after complex political structures and diverse political agendas were encountered. By 1930, after ten years of unproductive effort in the Federal arena, the New-Staters discovered that it would be less difficult to secure the New State via the existing Section 124, than by seeking to amend it. In 1921, however, it was all ahead of them; the next chapter will take up the story from 1921, for an analysis of the New-Staters' efforts in the NSW Parliament.