

Introduction

On a sunny Saturday in late October 1920, twenty-six people turned up at the Australian Socialist Party (ASP) Hall in Liverpool Street, Sydney. Those who gathered there that day, at the invitation of the ASP, resolved to form the Communist Party of Australia (CPA). Three of them were women – Adela Pankhurst Walsh, Marcia Reardon and Christian Jollie Smith. Early histories of the CPA, however, rarely mention these women,¹ reflecting the attitude towards women within the Communist Party itself – that their role was to sustain the men in their struggle against capitalism.² Such marginalisation of women has also been a feature of labour history more broadly.

Until the 1970s, labour history focussed on the activities of men and the ongoing conflict between groups of men.³ Moreover, it was not just an Australian fixation. In her critique of that iconic text of labour history, *The Making of the English Working Class*, Joan Wallach Scott noted ‘that one is struck not by the absence of women in the narrative but by the awkward way in which they figure there.’ She argues that E. P. Thompson’s classic work ‘is pre-eminently a story about men’ and while women are present they are marginal.⁴ In Canada, a similar story emerges. Joan Sangster found that historians of the labour left there either ignored women’s contribution or dismissed it as negligible. She argued that ‘retrieving the history of women socialists’ was essential ‘if we are to understand what historical conditions encourage, or stifle, women’s radicalism.’⁵

In his pioneering history of the Communist Party of Australia,⁶ published in 1969, Alistair Davidson makes no mention of women being present at the founding meeting of the Party nor that two women were elected to the provisional executive of twelve.⁷ Christian Jollie Smith is mentioned only in footnotes.⁸ Adela Pankhurst Walsh and Marcia Reardon are not mentioned at all. Only a few women, such as the writer Katherine Susannah Prichard, who founded a branch of the Party in Western Australia, are recognised by name in the main text

¹ Nor many women at all as noted by Joy Damousi, *Women Come Rally: Socialism, Communism and Gender, 1890-1955*, Oxford University Press, Melbourne, 1994, p 2.

² Stuart Macintyre, *The Reds: The Communist Party of Australia from Origins to Illegality*, Allen and Unwin, Sydney, 1998, p 124

³ Marilyn Lake, ‘The Constitution of Political Subjectivity and the Writing of Labour History’, in Terry Irving (ed), *Challenges to Labour History*, University of New South Wales Press, 1994, p 77.

⁴ Joan Wallach Scott, *Gender and the Politics of History*, Columbia University Press, New York, 1988, p 71-72.

⁵ Joan Sangster, *Dreams of Equality: women on the Canadian left, 1920-1950*, McClelland and Stewart Inc, Toronto, 1989, p 7-9

⁶ Alistair Davidson, *The Communist Party of Australia*, Hoover Institution Press, Stanford California, 1969.

⁷ *Ibid.*, p 9.

⁸ *Ibid.*, pp 12, 20.

of Davidson's history. Labour historians Robin Gollan and Ian Turner, who published in the 1970s, make no mention of women being involved in the founding of the CPA and make only a few references to other women.⁹ In Frank Farrell's history of international socialism in Australia, published more than a decade later,¹⁰ Adela Pankhurst Walsh and Marcia Reardon are mentioned in conjunction with their husbands¹¹ but there is no reference at all to Christian Jollie Smith and, again, there are only a few passing references to other women.

The absence of women in the early histories of the CPA inspired Joyce Stephens to address the issue. In her 1987 study¹² she noted that while Communist women generally worked through auxiliary organisations, which were established to support men's struggles,¹³ this did not explain their absence from Party histories.¹⁴ Although she acknowledges the contribution of the women who were founding members of the Party, Stephens focuses largely on the work of militant women's groups during the depression, examining in detail the lives of ten women, most of whom joined the CPA during the 1930s. During the 1980s, several women who had joined the CPA in the 1930s and 1940s also added their own voices.¹⁵ More recently, Barbara Curthoys and Audrey Macdonald published a history of the Communist women's organisation, the Union of Australian Women.¹⁶

Since the 1970s, there has been a shift towards a more inclusive labour history but, as British historians June Harman and Karen Hunt noted, 'labour historians still seem reluctant in most cases to give women the same attention as they give men'.¹⁷ This situation was not really remedied by Stuart Macintyre's 1998 history of the CPA up to the early years of the Second World War. While there is an impressive total of more than fifty women listed in the index,

⁹ Robin Gollan, *Revolutionaries and Reformists: Communism and the Australian Labour Movement 1920-1950*, George Allen and Unwin, Sydney, 1975; Ian Turner, *Industrial Labour and Politics: the Dynamics of the Labour Movement in Eastern Australia, 1900-1921*, Hale and Iremonger, Sydney, 1979.

¹⁰ Frank Farrell, *International Socialism and the Australian Labour Movement: The Left in Australia*, Hale and Iremonger, Sydney, 1981. In the 1970s

¹¹ *Ibid.*, pp 53 and 54 respectively.

¹² Joyce Stephens, *Taking the Revolution Home: Work among Women in the Communist Party of Australia, 1920-1945*, Sybylla Press, 1987.

¹³ *Ibid.*, p 10.

¹⁴ *Ibid.*, p15.

¹⁵ Including Oriel Gray, *Exit Left: Memoirs of a Scarlet Woman*, Penguin Books, Melbourne, 1985; Bernice Morris, *Between the Lines*, Sybylla Press, Melbourne, 1985; Daphne Gollan, 'The memoirs of "Cleopatra Sweatfigure"', in Elizabeth Windschuttle (ed), *Women Class and History: Feminist Perspectives on Australia 1788-1978*, Fontana Books, Melbourne, 1988; Dorothy Hewett, *Wild Card: An Autobiography 1923-1958*, McPhee Gribble/Penguin Books, Melbourne, 1990; Audrey Johnson, *Bread and Roses: A Personal History of Three Women Militants and Their Friends 1902-1988*, Left Book Club, Sydney, 1990; Amirah Inglis, *The Hammer and the Sickle and the Washing Up*, Hyland House, Melbourne, 1995.

¹⁶ Barbara Curthoys and Audrey Macdonald, *More than a hat and glove brigade: the story of the Union of Australian Women*, Bookpress, Sydney, 1996.

¹⁷ June Harman and Karen Hunt, *Socialist Women in Britain, 1880s to 1920s*, Routledge, London, 2002, p 24.

closer examination shows that most are merely mentioned in passing or as sources of colourful anecdotes. While Macintyre gives Smith more historical recognition than most – placing Smith amongst the group of men preparing the manifesto and programme for the proposed Communist Party¹⁸, noting her role as piano accompanist for a lecture on classical music by a male comrade at an early fundraising event for the CPA,¹⁹ making several passing references to her legal practice,²⁰ and noting her romantic misfortunes ‘deserted first by Earsman and subsequently by Carl Baker’²¹ – the reader is still left with the overall impression that her participation in the activities of the Party was marginal.

Feminist historian Joy Damousi, had earlier taken up the challenge of explaining women’s marginalisation in the published histories of socialist and Communist movements. Damousi set out ‘to examine the nature of women’s marginalisation: to consider how and why women activists have been constructed as peripheral within socialist and Communist parties’ and to ‘analyse women’s motives, aspirations and their political subjectivity.’²² In discussing the backgrounds and activism of dozens of radical/socialist women, Damousi succeeds in showing that many women ‘were active participants in what they conceived to be the struggle against capitalism, oppression and injustice.’²³ Their radicalism/socialism, she argued, was derived from radical/socialist family backgrounds, husband and wife political partnerships, or involvement in the women’s suffrage movement.²⁴

Damousi also suggests that women activists in the radical/socialist movements were marginalised, because their ‘entry into the socialist movement ... invariably reflected the ‘public/private dichotomy’ that prevailed in society at large.’²⁵ This dichotomy meant acceptance of the belief that public speaking, agitation and propaganda tasks were the province of men, while women were largely involved in a supportive role, such as in fundraising activities, which was simply an extension of their domestic (that is, private) role and therefore devalued.²⁶ However, Damousi remarks that Christian Jollie Smith, along with a few other women such as writers Jean Devanny and Katherine Susannah Prichard, also

¹⁸ Macintyre, *op cit.*, p 21.

¹⁹ *Ibid.*, p 26.

²⁰ *Ibid.*, pp 125, 181, 273.

²¹ *Ibid.*, p 125.

²² Damousi, *op cit.*, p 1.

²³ *Ibid.*, p 5.

²⁴ *Ibid.*, pp 24-30.

²⁵ *Ibid.*, p 34.

²⁶ *Ibid.*, p 35.

members of the CPA, transcended the public/private dichotomy.²⁷ Lawyers and writers necessarily entered the public domain in pursuing their professions.

While Damousi's study goes some way to recovering the role of many women in radical and leftwing politics in Australia from the late nineteenth to the mid-twentieth centuries, the reader is left with some unanswered questions, particularly about many of the individual women she mentions, whose radicalism/socialism did not appear to derive from a radical/socialist family background, political marriage partnership or participation in the women's suffrage movement. For example, Smith did not have a radical/socialist family background (her father was a highly regarded Presbyterian Minister), nor was she involved in the women's suffrage movement (she was too young and living in a remote country town, Naracoorte in South Australia, when that battle was raging). While Smith could be described as 'a single, professional middle class woman',²⁸ she was also involved in successive marriage-like partnerships with two men, both of whom were already married. Whether her radicalism can be explained by her partnerships is one of the issues explored in this thesis.

Of the women who were present at the founding meeting of the Communist Party of Australia only Adela Pankhurst Walsh has been the subject of a full biography which was published in 1996.²⁹ Previously, Ann Summers had written a short biographical article about Walsh which was published in 1980.³⁰ As Summers explains, it was 1972 before she became aware that Adela Pankhurst Walsh, one of the famous English suffragette Pankhurst family, had lived in Australia. This discovery made Summers curious about what Walsh had actually done here and 'why she had never been the subject of a previous biography or even an article.' On enquiring further Summers found that Walsh was regarded as 'a right wing fanatic, a traitor to the labour movement and by implication, not worthy of serious study.' Summers formed the view that, while Walsh was a female and thus of less interest to Australian historians, 'a more probable explanation is that Australian history has not developed the tools for exploring the kind of radical political shifts which Adela and her husband underwent.'

However, it was not so much a lack of the appropriate tools which precluded the writing of a biography of Walsh before 1996 but rather that history and historical biography had been

²⁷ *Ibid.*, p144.

²⁸ *Ibid.*, p 147.

²⁹ Verna Coleman, *Adela Pankhurst: The Wayward Suffragette, 1885-1961*, Melbourne University Press, 1996.

³⁰ Anne Summers, 'The Unwritten History of Adela Pankhurst Walsh', in Windschuttle (ed), *Women, Class and History: Feminist Perspectives on Australia 1788-1978*, Fontana Books, 1980, pp 388-400.

largely about ‘chaps’.³¹ Until the last quarter of the twentieth century there were few full length biographies of significant women in Australian history. In a survey of political biography published in 1985 Loveday discusses about fifty Australian biographies with male subjects but mentions only two with female subjects – Jessie Street (Peter Sekules, 1978) and Dame Annabelle Rankin (Waveney Browne, 1981).³² Of those women listed in *The Oxford Companion to Australian History* only three had been the subject of full biographies published before 1975 – Caroline Chisholm (Margaret Kiddle, 1950), Georgiana Molloy (Alexandra Hasluck, 1955) and Vida Goldstein (Leslie Henderson, 1973). However, there were at least two earlier biographies – one of Mrs Harrison Lee, a temperance campaigner (Bessie Cowrie, 1900) and one of Anna King, the wife of Governor Philip Gidley King (Marnie Bassett, 1940).

Since 1980 there has been an escalation in the quantity of life writing. James Walter noted this trend in a collection of essays published in 1992, but the majority of biographies he discusses have male subjects.³³ Increasing interest in feminist life writing resulted in a conference on Australian feminist biography and autobiography in Adelaide in 1989³⁴ which revealed the range of issues, subjects and approaches that feminist life writers were grappling with at the time. Since then there has been an upsurge in the number of published biographies of women but most have been about literary women³⁵ or those who were active in the suffrage movement or first wave feminism.³⁶ There are few about women who were in the labour movement or in the professions.

³¹ Sandra Stanley Holton, “‘History is About Chaps’: Professional, National and Gender Identities In Hancock’s Autobiographies”, in DA Low (ed), *Keith Hancock: The Legacies of an Historian*, Melbourne University Press, 2001, p 277.

³² P Loveday, “Political History and Political Biography”, in Don Aitken (ed), *Surveys of Australian Political Science*, George Allen and Unwin, Sydney 1985, pp 96-101.

³³ James Walter, “Biography, Psychotherapy and Cultural Space”, in Ian Donaldson, Peter Read and James Walter (eds), *Shaping Lives: Reflections on Biography*, Highland Press, Canberra 1992, pp 261-265.

³⁴ Many of the papers from the conference were collected and published in Susan Magarey (ed), *Writing Lives: Feminist Biography and Autobiography*, Australian Feminist Studies Publications, 1992.

³⁵ Since 1980 biographies of the following literary women have been published: Barbara Baynton (Penne Hackforth-Jones, 1989), Ada Cambridge (Margaret Bradstock and Louise Wakeling, 1991, and also Audrey Tate, 1991), Jessie Couvreur (Patricia Clarke, 1994) Eleanor Dark (Barbara Brooks, 1998), Jean Devanny (Carole Ferrier, 1999), Miles Franklin (Colin Roderick, 1982, and another by Jill Roe, in press), Mary Gilmore (W H Wilde, 1988), Louisa Lawson (Brian Mathews, 1987), Dorothea Mackellar (Adrienne Howley, 1989), Nettie Palmer (Deborah Jordan, 1999), Henry Handel Richardson (Axel Clark, 1990, and also Michael Ackland, 2004), Catherine Helen Spence (Susan Magarey, 1985), Christina Stead (Hazel Rowley, 1993), Judith Wright (Veronica Brady, 1998), Charmian Clift (Nadia Wheatley, 2001).

³⁶ There is some overlap with literary women but others not mentioned above are Maybanke Anderson (Jan Roberts, 1993), Vida Goldstein (Janette Bomford, 1993), Rose Scott (Judith Allen, 1994), Adela Pankhurst Walsh (Verna Coleman, 1996).

Carole Ferrier's biography of Jean Devanny³⁷ is one which ticks both boxes as Devanny was both a writer and a Communist. However, as Ferrier notes elsewhere,³⁸ while 'Devanny was a highly visible figure in the Communist Party' she had previously received little detailed attention by historians of the Left or feminism. Ferrier comments that Jean Devanny 'should have been a highly congenial subject for the libertarians of early second-wave feminism' but 'perhaps coming to terms with someone like her is still difficult because of the challenge her politics and her sexual politics presented.'³⁹ Journalist and labour reformer, Alice Henry, has also been the subject of a biography by Diane Kirkby, published in 1991.⁴⁰ Kirkby contends that the life of Alice Henry is illustrative of the avenues available to educated, middle class women in the late nineteenth and early twentieth centuries. Instead of confining herself to respectable domesticity, she chose to enter the public domain and employ her professional skills in fighting for social change, a fight which took her to America where she worked for labour reform.⁴¹ Another woman journalist who campaigned for social and electoral reform was Catherine Helen Spence whose biography by Susan Magarey was published in 1985.⁴² Journalism was, in Spence's time, the preserve of men. Spence's struggle 'to overcome the patriarchal conventions which threatened to thwart her ambition, restrict her self-fulfilment and the achievement of her ends',⁴³ was a struggle that was repeated by those women who wanted to become lawyers.

Women lawyers have been largely invisible as legal historians have generally concentrated on the impact of the law on women.⁴⁴ Of particular importance was the impact of the legal doctrine of *feme couverte* on the position of married women. Under British common law, which was also the basis of Australian colonial law, a woman's legal personality on marriage was encompassed by her husband, that is, a married couple was regarded as one person before the law and it was the husband whose rights were recognised legally. A related concept that was the subject of legal debate was whether it was intended that women could be included in

³⁷ Carole Ferrier, *Jean Devanny: Romantic Revolutionary*, Melbourne University Press, 1999.

³⁸ Carole Ferrier, "Jean Devanny, Silenced History, Women's History", in Joy Damousi and Katherine Ellinghaus (eds), *Citizenship. Women and Social Justice: International Historical Perspectives*, History Department, University of Melbourne, 1999, pp 113-114.

³⁹ *Ibid.*

⁴⁰ Diane Kirkby, *Alice Henry: The Power of Pen and Voice: The Life of an Australian-American Labour Reformer*, Cambridge University Press, 1991.

⁴¹ *Ibid.*, p xii.

⁴² Susan Magarey, *Unbridling the tongues of women: a biography of Catherine Helen Spence*, Hale and Iremonger, Sydney, 1985.

⁴³ *Ibid.*, p 28.

⁴⁴ For Australian examples see Judy Mackinoltz and Heather Radi, *In Pursuit of Justice: Australian Women and the Law 1788-1979*, Hale and Iremonger, Sydney, 1979, and Diane Kirkby, *Sex, Power and Justice: historical perspectives of law in Australia*, Oxford University Press, Melbourne, 1995.

the term 'persons' where that term was used in statute law. It was the judicial view that women were not 'persons' which long prevented them from becoming lawyers.

Although the first woman to be admitted to the bar in the USA was in Iowa in 1869, female applicants were refused admittance to the bar because of their sex in Illinois in 1870, Wisconsin in 1875 and Massachusetts in 1881.⁴⁵ Admission to the bar was controlled by legislation which, in many cases, just referred to qualified 'persons' but the 'person' was generally referred to as *he*. While interpretation rules provided that words importing the masculine gender might be extended to the female gender, in refusing these women admission to the bar the judges argued, firstly, that it was not the intention of the legislature to admit them and, secondly, that, as they had never previously been admitted to the bar, they could not now be admitted. Despite these conservative and obstructionist views, by 1890 there were around 135 women lawyers and law students in the United States.⁴⁶

The first woman to be admitted to the bar in Canada also had to overcome similar obstruction. In 1891, Clara Brett Martin applied to the Law Society of Upper Canada for permission to become a student member but was refused on grounds that women could not be admitted as they had never previously been admitted in either Canada or Britain.⁴⁷ In 1892 the Ontario legislature passed a bill that opened legal education to women but the legislation gave the Law Society a discretionary power to admit women and the Society refused to exercise its discretion.⁴⁸ After Martin appealed to the Attorney-General, who attended the Law Society's convocation and successfully put the motion that women be admitted, Clara Brett was finally accepted to study law.⁴⁹ However, she had it all to do again when she decided that she wanted to be admitted to practice as a barrister as well as a solicitor. In February 1897, after the Attorney-General again intervened,⁵⁰ Clara Brett Martin became the first woman in the British Empire to be called to the bar and admitted as a solicitor.⁵¹ Women in Britain, however, had to wait until after the end of the First World War before they were admitted to legal practice.⁵²

⁴⁵ D Kelly Weisberg, "Barred From the Bar: Women and Legal Education in the United States, 1870-1890", *Journal of Legal Education*, Vol 28, 1977, pp 485-488.

⁴⁶ *Ibid.*, p 494.

⁴⁷ Constance B Backhouse, "'To Open the Way for Others of my Sex': Clara Brett Martin's Career as Canada's First Woman Lawyer", *Canadian Journal of Women and the Law*, Vol 1, 1985, pp 7-8.

⁴⁸ *Ibid.*, p 17.

⁴⁹ *Ibid.*, p 21.

⁵⁰ *Ibid.*, pp 26-28.

⁵¹ *Ibid.*, p 31.

⁵² Hilary Sommerlad and Peter Sanderson, *Gender, Choice and Commitment: women solicitors in England and Wales and the struggle for equal status*, Ashgate, Dartmouth, 1998, p 57.

Similar barriers were faced by women in Australia who wanted to become lawyers. In 1897, Grata Flos Matilda (known as Flos) Greig enrolled in Arts and Law at the University of Melbourne and in 1899 Ada Emily Evans enrolled in Law at the University of Sydney. Evans was the first woman in Australia to obtain a law degree but was refused admission to practise. Flos Greig, who graduated in 1903, became the first woman in Australia to be admitted to practise on 1 August 1905 after the Victorian Parliament had passed an enabling bill to remove the impediments which prevented women from practising. When Christian Jollie Smith graduated in 1911, Victoria was still the only state in which women had been admitted to practise law. In South Australia Mary Cecil Kitson (later Tension Woods) became the first woman to be admitted to practise law there in October 1917. In 1918, the NSW Parliament passed the Women's Legal Status Act which opened the legal profession to women in NSW. In 1921 Ada Evans became the first woman to be admitted to the NSW bar but did not practise because of personal commitments and the lapse of time since her graduation. In June 1924, Sybil Morison was the second woman to be admitted to the bar in NSW where she practised until 1937. In the same month Marie Beuzeville Byles became the first woman to be admitted to practice as a solicitor in NSW. Later in 1924, Christian Jollie Smith became only the second woman to be admitted to practice as a solicitor in NSW.⁵³

While there are a few general articles about Australia's early women lawyers, and most have been the subject of short biographies in the *Australian Dictionary of Biography*, few have been the subject of a full biography. Only Joan Rosanove, the first woman to take silk in Victoria, was the subject of a full biography before 1975.⁵⁴ Sheila McClemons, one of the first women lawyers to be admitted to practice in Western Australia, has been the subject of a biography published in 2000,⁵⁵ and a biography about Australia's first woman Queen's Counsel and judge, Roma Mitchell, appeared in 2007.⁵⁶ As an early woman lawyer who was the first woman principal of her own legal practice in Sydney, which she sustained for some thirty-five years, it is surprising that Christian Jollie Smith has not attracted more attention

⁵³ Details derived from Joan M O'Brien "Ada Emily Evans", *ADB*, Vol 8, p 443; Ruth Campbell and J Barton Hack, "Jane Stocks Greig, Janet Lindsay Greig, Clara Puella Greig, Grata Flos Matilda Greig and Stella Fida Greig", *ADB*, Vol 9, p 102; Heather Radi, "Marie Beuzevill Byles", *ADB*, Vol 13, p 325; Joan M O'Brien, "Sibyl Enid Vera Munro Morrison", *ADB*, Vol 10, p 596; Daphne Kok, Joan O'Brien and Ruth Teale, "In the office and at the Bar: Women in the legal profession", in Mackinolty and Radi (eds), *op cit.* pp 181-188; Margaret Thornton, "Women as fringe dwellers of the jurisprudential community", in Kirkby (ed), *op cit.* pp 188-201; Linda J Kirk, "Portia's Place: Australia's First Women Lawyers", *Australian Journal of Legal History*, Vol 1, 1995, p 78.

⁵⁴ Isabel Carter, *Woman in a Wig: Joan Rosanove QC*, Lansdowne Press, Melbourne, 1970

⁵⁵ Lloyd Davies, *Sheila: A biography of Sheila Mary McClemons*, Desert Pea Press, Perth, 2000

⁵⁶ Susan Magarey and Kerrie Round, *Roma the First: A biography of Dame Roma Mitchell*, Wakefield Press, 2007.

from legal historians. Daphne Kok, Joan O'Brien and Ruth Teale briefly mention Smith's industrial practice and her defence of the writer and journalist, Egon Kisch.⁵⁷ Margaret Thornton also briefly refers to Smith's socialism, her commitment to left wing causes, her defence of Egon Kisch and the challenge to the validity of the *Communist Party Dissolution Act 1950*.⁵⁸ One of the objects of this thesis is to document more fully Smith's professional career.

Christian Jollie Smith has not attracted much attention from feminist historians either. Carole Ferrier's comments about Jean Devanny, regarding the challenge her politics and her sexual politics provided, could also be applied to Smith. It might be questioned whether Christian Jollie Smith was a feminist. Nancy Cott persuasively argues that Linda Gordon's definition of feminism (that 'feminism is a critique of male supremacy, formed and offered in the light of the will to change it, which in turn assumes a conviction that it is changeable') provides the historian with a definition that can be used in differing circumstances.⁵⁹ On the basis of this definition it would seem that Christian Jollie Smith was not a feminist. While from 1925 until the end of her life she lived independently and supported herself in a profession where there were few women, and she advocated divorce law reform particularly in relation to the way the divorce laws affected women, she did not campaign actively and publicly for women's rights. The campaigns in which she was involved – for example, civil rights and Aboriginal rights – were not specifically about women's rights.

However, 'feminism' has also come to mean many things as scholars have defined the term to suit their own purposes.⁶⁰ American historian Joyce Antler has developed another definition of feminism which might be used to place Christian Jollie Smith in the feminist spectrum – 'feminism as life process' which she describes as being 'a single individual's struggle for autonomy, rather than a self-conscious, political strategy for altering the social order. It is a personal, rather than a collective, set of processes taking place over an individual's life course by which women have sought to mold [sic] their destinies in the world and confront, at each stage of their life cycle, the gender defined issues that have traditionally limited female opportunities.'⁶¹

⁵⁷ Kok, O'Brien and Teale, *op cit*, p 183.

⁵⁸ Thornton, *op cit*, p 201.

⁵⁹ Nancy F Cott, "What's in a name? The Limits of "Social Feminism"; or Expanding the Vocabulary of Women's History", *The Journal of American History*, Vol 76, No 3, 1989, p 809.

⁶⁰ *Ibid.*, p 826.

⁶¹ Joyce Antler, "Feminism as Life Process: The Life and Career of Lucy Sprague Mitchell", *Feminist Studies*, No 1, Spring 1981, p 134.

Such career women developed a lifestyle which enabled them to participate in the public sphere through their own professional and political activities. Joyce Antler's exemplar, Lucy Sprague Mitchell, an American who was born in 1878, was not very active in the political aspects of the women's movement but she managed to gain an education and establish a professional career in early childhood education in spite of obstacles. Ambivalent about marriage she eventually married a man who supported her career aspirations. Joyce Antler describes the life cycle issues faced by Lucy Sprague Mitchell as including 'the struggle of daughters to escape the family claim, the dilemma of choice between marriage and/or a career, and the problems of widowhood.'⁶² Antler argues that, in her search for autonomy, Mitchell consciously and deliberately created a world in which she could live and work in a manner which fulfilled her needs and aspirations. Unusually for the time, Lucy Sprague Mitchell seems to have had it all – career, marriage, family. Christian Jollie Smith did struggle to achieve autonomy and independence and she was for a time a member of a political party that pursued the reorganisation of society. While Smith did have marriage-like relationships these occurred during a hiatus in her professional career. When she eventually returned to practising law and concentrated on her career she eschewed marriage, both *de facto* and *de jure*.

Many early women university graduates did not marry. As Alison Mackinnon has noted, half of the early female university students in South Australia did not marry because society expected them to choose between marriage and a career, a choice that was facilitated if they were able to support themselves.⁶³ However, women who became lawyers were more likely to marry than other professionals. A study of marriage among a sample of women lawyers in America in the late nineteenth century, reported by Virginia Drachman, found that around half had married, a higher proportion than among women doctors.⁶⁴ Women lawyers who did not marry generally chose to put their career first but those who married did not necessarily give up their careers even though that was the expectation in the late nineteenth century. Many married fellow lawyers and continued to practice in partnership with their husbands, usually by working in and running their husband's office, which enabled them to successfully combine marriage and a career. Having a wife qualified in law was also a benefit for a male

⁶² *Ibid.*, p 150.

⁶³ Alison Mackinnon, *Love and Freedom: Professional Women and the Reshaping of Personal Life*, Cambridge University Press, 1997, p 90.

⁶⁴ Virginia G Drachman, "'My 'Partner' in Law and Life": Marriage in the Lives of Woman Lawyers in Late 19th and Early 20th Century America", *Journal of Law and Social Inquiry*, Vol 14, No 2, Spring 1989, footnote 25, p 231.

sole practitioner as it reduced the need to employ staff.⁶⁵ While there has not been a similar study of the early women lawyers in Australia an analysis of the entries of those who were included in the *Australian Dictionary of Biography* suggests that most eventually married and when they did they tended to marry lawyers. Smith also contemplated marriage to a fellow lawyer but her engagement foundered due to religious differences.

To date there had been no full biography of Christian Jollie Smith. One reason for writing her biography now, more than forty years after her death, is to recover the life story of a remarkable woman who was quite famous in her lifetime. A generation younger than Alice Henry she was faced with similar dilemmas. As Diane Kirkby remarked in reference to Henry, ‘what she then did with her life, how she moved in the times in which she lived, is in some ways unique and particular. Rather than confine herself to the constraints of domesticity and respectable femininity, she courageously chose a course that brought her more public attention than most women receive.’⁶⁶ These words can be applied equally to Smith. However, not only did she attract public attention during her lifetime she also, as Jean Devanny did later, attracted some notoriety but, unlike Jean, she did not challenge the double standards which were applied to women within the Party.⁶⁷

While there has been no full biography, Smith has been the subject of shorter studies. There is a biographical essay in Heather Radi’s anthology⁶⁸, an entry in the *Australian Dictionary of Biography*⁶⁹ and a very brief entry in *The Oxford Companion to Australian History*. Smith also has walk-on parts in a number of other biographies and autobiographies – notably of her friends, Adela Pankhurst Walsh, Nettie Palmer,⁷⁰ Hilda Bull (later Esson)⁷¹ and Katharine Susannah Prichard.⁷² She is also mentioned in Drusilla Modjeska’s studies of Australian women writers from the 1920s to the 1940s.⁷³ On the whole, the dispersed information about Christian Jollie Smith is often contradictory and sometimes wrong. Consequently, another

⁶⁵ *Ibid.*, pp 235-237.

⁶⁶ Diane Kirkby, *op cit.*, p xii.

⁶⁷ Carole Ferrier, “Jean Devanny”, *op cit.*, p 4.

⁶⁸ Heather Radi, “Christian Jollie-Smith [sic]”, in H Radi (ed), *200 Australian Women: A Redress Anthology*, NSW, 1988, pp 151-152.

⁶⁹ Joy Damousi, “Christian Brynhild Ochiltree Jollie Smith”, *ADB*, Vol 11, pp 641-642.

⁷⁰ Deborah Jordan, *Nettie Palmer: Search for an Aesthetic*, History Department, University of Melbourne, 1999

⁷¹ Peter Fitzpatrick, *Pioneer Players: the Lives of Louis and Hilda Esson*, Cambridge University Press, Melbourne, 1995.

⁷² Katharine Susannah Prichard, *Child of the Hurricane: An Autobiography*, Angus and Robertson, London, 1964.

⁷³ Drusilla Modjeska, *Exiles at Home Australian Women Writers, 1925-1945*, Angus and Robertson Classic Edition, HarperCollins, Australia, 2001.

reason for now writing a full biography is to resolve contradictions and correct misinformation where it has been possible to do so.

Carolyn Heilbrun advocates the life cycle approach to writing a biography of a woman. She argues that the psychologist Erik Erikson's concept of the 'psycho-social moratorium' can usefully be applied in explaining events in a woman's life.⁷⁴ Erikson defined the 'psychosocial moratorium' as a period of prolonged adolescence and delay in assuming adult commitments because of uncertainty about what life path to follow.⁷⁵ This period is followed by breaking loose – leaving friends and family, even the subject's native city.⁷⁶ Heilbrun argues that a young woman who regarded the accepted female destiny of marriage and motherhood as unattractive may well embrace delay as a means of avoiding such a narrow fate.⁷⁷ She may then break away from the conventional path by defying society's norms. Heilbrun argues that 'it is difficult to grasp how absolutely women of an earlier age could expel themselves from conventional society (that is, all society) by committing a social, usually a sexual, sin. ...an act, which would usually (but not always) occur in a woman's late twenties or thirties.'⁷⁸ Heilbrun's insights provided a helpful guide for organising this biography of Christian Jollie Smith and in explaining the rebelliousness of her early thirties.

Susan Magarey has argued that, in writing a life, a biographer must consider three questions: public or private?, individual or society?, truth or beauty?, although she does not regard these 'dichotomous oppositions...as fixed, necessary or unresolvable.'⁷⁹ The first question – public or private? – concerns what and how much to reveal about the subject's personal life, particularly their sexual morality which, Magarey concedes is 'not always easy for a biographer.' In the case of Christian Jollie Smith resolving this question did not involve much angst as there are no personal papers in which to delve for hidden behaviour. What can be known about her personal life and sexual morality is already on the public record although there is scope for reinterpretation of the evidence on which others have based their conclusions.

⁷⁴ Carolyn G Heilbrun, *Writing A Woman's Life*, WW Norton and Co, New York, 1988, p 49.

⁷⁵ Erik Erikson, *Identity: Youth and Crisis*, WW Norton and Co, New York, 1968, pp 156-157.

⁷⁶ *Ibid.*, p 143.

⁷⁷ Heilbrun, *op cit.*, pp 51-52.

⁷⁸ *Ibid.*, p 49.

⁷⁹ Susan Magarey, *Three Questions for Biographers: Public or Private? Individual or Society? Truth or Beauty?*, Paper for the History Discipline, University of Adelaide, 18 June 2007 (electronic copy)

The second question – individual or society? – concerns how much of the times should be included in the life. Examining what was happening in the wider world often helps to explain events in the individual life and Christian Jollie Smith was a child of her times. Born in 1885, Smith's early life was contemporaneous with the rise of popular socialism in the late nineteenth and early twentieth century in both Britain⁸⁰ and Australia⁸¹ and with the emergence of the 'New Woman'.⁸² She came of age during the Edwardian era which was characterised by three main trends: the increasing popularity of socialism; the evolution of the 'New Woman' and the widespread public discourse on sexuality and sexual freedom.⁸³ Fiction was dominated by the 'New Woman' and 'rebellious heroines, independent women and unhappy wives became common figures in Edwardian novels.'⁸⁴ One such novel, H G Wells's *Ann Veronica*, was admired by Smith. The political path which led from a strict religious upbringing through socialism into radicalism was not an unusual one and there were a number of individual women who linked sexual radicalism with political radicalism.⁸⁵

⁸⁰ There have been a number of studies documenting this. Henry Pelling, *America and the British Left: From Bright to Bevan*, Adam and Charles Black, London, 1956; Henry Pelling, *The Origins of the Labour Party 1880-1900*, Clarendon Press, Oxford, 1965; Stanley Pierson, *Marxism and the Origins of British Socialism: The struggle for a new consciousness*, Cornell University Press, Ithaca and London, 1973; Stanley Pierson, *The Journey from Fantasy to Politics*, Harvard University Press, 1979; Norman and Jean Mackenzie, *The First Fabians*, Wiedenfield and Nicholson, London, 1977; A.M. McBriar, *Fabian Socialism and English Politics, 1884-1918*, Cambridge University Press, 1966.

⁸¹ Australian studies include Robin Gollan, *Radical and Working Class Politics: A Study of Eastern Australia, 1850-1910*, Melbourne University Press, 1960; Robin Gollan, *Revolutionaries and Reformists: Communism and the Australian Labour Movement 1920-1950*, George Allen and Unwin, Sydney, 1985; Verity Burgmann, *'In our Time': Socialism and the rise of Labour, 1885-1905*, George Allen and Unwin, Sydney, 1985; Frank Bongiorno, *The People's Party: Victorian Labor and the Radical Tradition, 1875-1914*, Melbourne University Press, 1996; Bruce Scates, *A New Australia: Citizenship, Radicalism and the First Republic*, Cambridge University Press, 1997.

⁸² British studies include Martha Vicinus, *Independent Women: Work and Community for single women 1850-1920*, Virago, London, 1985; Elaine Showalter, *Sexual Anarchy: Gender and Culture at the Fin de Siècle*, Viking, London, 1990; Ruth Brandon, *The New Women and the Old Men: Love Sex and the Woman Question*, Secker and Warburg, London, 1990; Sally Mitchell, *The New Girl: Girls' Culture in England 1880-1915*, Columbia University Press, New York, 1995; Susan Bruley, *Leninism, Stalinism and the Women's Movement in Britain 1920-1939*, Sailand Publishing, New York and London, 1986; June Harman and Karen Hunt, *Socialist Women in Britain 1880s to 1920s*, Routledge, London, 2000. Australian studies include Beverley Kingston, 'Women in Nineteenth Century Australian History', *Labour History*, No 67, November 1994; Katie Holmes, 'Spinsters Indispensable: Feminists, Single Women and the Critique of Marriage, 1890-1920', *Australian Historical Studies*, No 110, 1998; Alison Mackinnon, *Love and Freedom: Professional Women and the Reshaping of Personal Life*, Cambridge University Press, 1997; Susan Magarey, *Passions of the first wave feminists*, UNSW Press, Sydney, 2001.

⁸³ Samuel Hynes, *The Edwardian Turn of Mind*, Princeton University Press, New Jersey, 1968, pp 87, 171-174

⁸⁴ Jane Eldridge Miller, *Rebel Women: Feminism, Modernism and the Edwardian Novel*, Virago Press, London, 1994, pp 3, 38.

⁸⁵ Stephen Yeo, "A NEW LIFE: The Religion of Socialism in Britain, 1883-1896", *History Workshop Journal*, Vol 4, 1977; Norman and Jean Mackenzie, *The First Fabians*, Weidenfield and Nicholson, London, 1977; Mari Jo Buhle, *Women and American Socialism, 1870-1920*, University of Illinois Press, 1981; Susan Bruley, *Leninism, Radicalism and the Women's Movement in Britain 1920-1939*, Sailand Publishing, New York and London, 1986.

The third question – truth or beauty? – concerns the process of selecting material ‘from the vast mass of data that a biographer (or an historian) accumulates’ and whether the choices regarding what to include constitutes ‘making it up’. In the case of Christian Jollie Smith there was no ‘vast mass of data.’ This biography of Smith is necessarily partial and it is partial in several senses of the word because it relies on evidence in other people’s papers and the public record in reconstructing Smith’s life. Fortunately, Smith was a very good friend of Vance and Nettie Palmer whose collection contains about thirty letters that she wrote to Nettie. There are also several of Smith’s letters in Aileen Palmer’s papers (daughter of Vance and Nettie) and in Esmonde Higgins’s papers (brother of Nettie). There are also numerous references to Smith in the correspondence between Nettie and both Vance and Esmonde and recorded in Nettie’s diaries. This means that much of what we know about Smith, particularly about her late adolescence and early maturity, is through the eyes of Nettie Palmer. There are also five crucial letters from the last years of Smith’s life in the papers of Lady Jessie Street. The papers of Guido Baracchi and William Paisley Earsman, both founding members of the CPA, also provide useful information.

Because she was a founding member of the Communist Party of Australia there is also a substantial amount of information in unpublished papers in government and institutional archives. Her ASIO file provides considerable detail about her activities from 1918 until around 1926 but not much after that date. However, this information needed to be evaluated carefully as the intelligence reports were frequently disapprovingly phrased, often exaggerated events and were sometimes quite misinformed. There were also several raids on the Communist Party offices by the intelligence services over the years and a great deal of the papers collected have been preserved in the National Archives of Australia. Trawling through these papers netted some nuggets of information which helped to throw light on some aspects of Smith’s activities in the early 1920s as did the papers of the Communist Party of Australia and the Trades and Labour Council of New South Wales. Beverley Symons bibliography⁸⁶ and Stuart Macintyre’s endnotes in his history of the CPA were invaluable resources for locating many relevant documents.

Newspapers also provide a substantial amount of information that is not available elsewhere. The *Argus*, the *Narracoorte Herald* and the *Presbyterian Messenger* provided information that enabled the reconstruction of Christian’s family. The databases of the Victorian and New

⁸⁶ Beverley Symons, *Communism in Australia: A Resource Bibliography*, National Library of Australia, Canberra, 1994.

South Wales Registrars of Births, Marriages and Deaths provided additional details about family members. Details about Christian's life and education up until 1902 were gleaned from the *Narracoorte Herald* and the *Adelaide Advertiser*. Information about Christian's degree graduation ceremony and her admission to practise law was also gleaned from the *Argus*. From 1925 onwards details of Christian's legal practice, to the extent that it was reported, were gained from the 'Law Report' columns of the *Sydney Morning Herald* and, for some cases, from the *Newcastle Morning Herald*; the official *Law Reports* for New South Wales and the Commonwealth courts also provided information about particular cases.

Apart from the biographies listed above, there were a number of other biographies and autobiographies which provided helpful information. The biographies of Sir Garfield Barwick⁸⁷, Sir Richard Kirby,⁸⁸ both barristers whom Smith briefed in their early careers, A B Piddington⁸⁹ and Sir Owen Dixon,⁹⁰ provided insights into the legal world as did the biographies of Communist barristers Fred Patterson⁹¹ and Ted Laurie.⁹² Susannah Short's biography of her father, Laurie Short,⁹³ and James McClelland's autobiography⁹⁴ provided details about the struggle for the control of the Federated Ironworkers' Association in the early 1950s.

This biography has been organised as follows: Chapter 1 covers the years from 1885 to 1906, and establishes her family background. It provides a description of her childhood and early youth to the extent that the absence of personal papers allows, her attendance at the Presbyterian Ladies College, Melbourne, introducing the friends she made there, and also the period between Smith leaving PLC and commencing law at the University of Melbourne for which there is little evidence of her activities. Chapter 2 covers her years at the University of Melbourne, her studies and the development of her socialist ideas. Chapter 3 deals with the establishment of her first legal practice and discusses her attitude to marriage, her brief engagement to a fellow lawyer, and the further development of her socialism. It also includes the key transitional period in Christian's life during which she left her family and friends in Melbourne and moved to Sydney to live with a married man and became actively involved in the establishment of the Communist Party of Australia. Chapter 4 discusses her role in the

⁸⁷ David Marr, *Barwick*, George Allen and Unwin, Sydney, 1980.

⁸⁸ Blanche D'Alpulget, *Mediator: A Biography of Sir Richard Kirby*, Melbourne University Press, 1977.

⁸⁹ Morris Graham, *A B Piddington: The Last Radical Liberal*, UNSW Press, Sydney, 1995.

⁹⁰ Philip Ayres, *Owen Dixon*, The Miegunyah Press, Second Edition, 2007.

⁹¹ Ross Fitzgerald, *Fred Patterson: The People's Champion*, University of Queensland Press, 1997.

⁹² Peter S Cook, *Red Barrister: A Biography of Ted Laurie QC*, Latrobe University Press, 1994.

⁹³ Susannah Short, *Laurie Short: A Political Life*, Allen and Unwin, 1992.

⁹⁴ James McClelland, *Stirring the Possum: A Political Autobiography*, Penguin Books, 1989.

Communist Party, her relationships and the re-establishment of her legal career. In Chapter 5 her career takes off when she is retained to defend a large number of unemployed men who were involved in illegal picketing and attempting to prevent evictions. With Smith now well-established as a lawyer, Chapter 6 covers some of her high profile cases originating from the Commonwealth Government's attempts to restrict the activities of the Communist Party and its adherents as well as her growing industrial practice and interest in civil rights. Chapter 7 covers the ten years between Smith turning 55 and 65. They were stressful years as she coped with staff shortages, health problems and difficult industrial cases. The last chapter begins with Christian's involvement in various cases involving Communism and the Communist Party such as litigation in the High Court against the Commonwealth Government's attempts to ban the Party. It continues with the impact of the Cold War on her industrial practice and the deterioration of her health. It outlines her last significant contribution - the provision of legal advice to the Aboriginal-Australian Fellowship then exploring the possibility of a constitutional amendment – and concludes with her death. The Epilogue examines the treatment of Smith in the years since her death.

Chapter 1: Glimpses of Childhood and Youth – 1885-1906

A ‘superabundance of Christian names’

Christian Brynhild Ochiltree Jollie Smith was born in Melbourne on 15 March 1885, to which she often referred as ‘my Ides’.¹ Born more than thirty months after her parents’ marriage she would prove to be an only child. Whether this was by accident or design cannot be known but the interval between marriage and first birth suggests that they were controlling their fertility.² Also unknown is whether Thomas and Jessie were disappointed that their first child was a girl.

Her ‘superabundance of Christian names’³ owed much to her parents and grandparents as it seems to have been a family practice to incorporate maternal surnames into children’s names. On hearing her name for the first time many people assume that Christian was male and, indeed, Christian is more often known as a boy’s name. Perhaps the best known example is the male protagonist in John Bunyan’s *Pilgrim’s Progress*.⁴ However, in Scottish history there are numerous examples of women being named Christian - the sister of the hero king, Robert the Bruce (Robert I), was named Christian as was his step-mother, another kinswoman and a bastard daughter.⁵ Sir Walter Scott also uses the name for the mother of the heroine in *The Heart of Midlothian*, ‘that singular Christian woman... Christian Mackenzie of Hochmagirdle’⁶ Closer to home, one of Christian’s cousins was also named Christian although she was known by her second name, Mary.

The origin of Christian’s second name, Brynhild, is less certain. Possibly the name comes from William Morris’s epic poem, *Sigurd the Walsing*, which was published in 1876. In the poem, a loose translation of the Icelandic *Volsunga Saga*, Sigurd the Walsing is betrothed to Brynhild but, under the influence of a magic potion, marries someone else. According to

¹ For example “Thank you for remembering my Ides” CJS to Nettie Palmer, 30 March 1953, *Vance and Nettie Palmer Papers* (hereafter cited as Palmer papers), NLA MS 1174/1/8312.

² A substantial delay between marriage and first birth was a signifier of fertility control in the late nineteenth century. Ann Larson, *Growing up in Melbourne: Transitions to Adulthood in the late Nineteenth Century*, PhD Thesis, ANU, 1986, pp 178, 194.

³ CJS is quoted as saying this in Edith Willard, “Australia’s Lady Lawyers. The Bar as a Profession for Women”, *Everylady’s Journal*, 6 January 1913, p 9.

⁴ Margaret Drabble (ed), *The Oxford Companion to English Literature*, Sixth Edition, Oxford University Press, 2000, p 201.

⁵ GWS Barrow, *Robert Bruce and the Community of the Realm of Scotland*, Edinburgh University Press, Edinburgh, 1975, pp 30, 35, 243.

⁶ Sir Walter Scott, *The Heart of Midlothian*, Collins, London and Glasgow, 1963, p 80.

Margaret Drabble, Morris's translation gave rise to popular interest in Icelandic literature.⁷ One or both of Christian's parents may well have read the poem. Fortunately, the derivation of her remaining names is more easily explained.

Ochiltree was derived from Christian's mother and maternal grandmother. Her mother was Jessie Ochiltree McLennan,⁸ the daughter of John McLennan and Jessie Ochiltree McLennan, née Bell.⁹ Both John McLennan and his wife were born in Scotland. It is not known when they arrived in Victoria but they may have been among those who sought their fortune in Victoria during the gold rush and later took up teaching for the State.¹⁰ John McLennan was a teacher at the Hamilton school in western Victoria from 1 July 1857 until 30 September 1863 and his wife acted as his assistant. Christian's mother was born at Hamilton in western Victoria in either late 1856 or early 1857.¹¹ She had a brother, Albert Edward McLennan, who was born around 1858.¹² In October 1863 the family moved to Buninyong near Ballarat in central Victoria where John and his wife continued to teach. After refusing to undergo examination, they were both dismissed from service in December 1865.¹³ Christian's mother was also said to be a trained teacher¹⁴ but there is no record for her in the Victorian Teacher Record Books. However, she may have trained in one of the many private ladies colleges that existed in nineteenth-century Victoria.¹⁵ Like many middle and upper-class women in the nineteenth century¹⁶ she was proficient in the accomplishments – recitation, singing and playing the piano – with which she would entertain her future husband's parishioners.

Christian's remaining forename was derived from her father and paternal grandmother. Thomas Jollie Smith, was the second son of the Reverend Alexander Campbell Smith and his wife Christina Smith, née Jollie,¹⁷ whose father was also a Presbyterian minister.¹⁸ The Reverend Alexander Campbell Smith was born at Paisley in Renfrewshire, Scotland, in

⁷ Drabble, *op cit.*, p 934.

⁸ Joy Damousi, "Christian Jollie Smith", *Australian Dictionary of Biography* (hereafter ADB), Vol 11, p 641.

⁹ Death Certificate of Jessie Ochiltree Smith, *Registry of Births, Deaths and Marriages*, New South Wales

¹⁰ Marjorie Theobald, *Knowing Women: Origins of Women's Education in Nineteenth Century Australia*, Cambridge University Press, 1996, p 133.

¹¹ She was aged 72 when she died in 1929.

¹² *Death Index, 1921-1985*, Victoria. He died in 1934 aged 76.

¹³ These details were derived from their records in the Teacher Record Books, microfilm, Public Record Office of Victoria, VPRS 13718/1314 and 1316.

¹⁴ [author unknown], *St Andrew's Presbyterian Church, Narracoorte: historical sketch, 1856-1916*, Naracoorte [the Church?], 1916, p 28.

¹⁵ Theobald, *op cit.*, pp 47-51.

¹⁶ Penny Russell, *A Wish of Distinction*, Melbourne University Press (hereafter MUP), 1994, pp 86-87.

¹⁷ Ian Breward, "Thomas Jollie Smith", *ADB*, Vol 11, p 663. It should be noted that "Jollie" is one of the forenames of Thomas and Christian and not part of their surnames. It is not hyphenated as is sometimes published eg in H Radi (ed), *200 Australian Women: A Redress Anthology*, NSW, 1988, p 151.

¹⁸ *Messenger of the Presbyterian Churches of Victoria and Tasmania*, 22 November 1901, p 830.

1823.¹⁹ He attended Glasgow University, where he achieved distinction as a scholar in classics, and at New College, Edinburgh.²⁰ In 1855, he was ordained a minister in the Free Church of Scotland²¹ at Innellan, Argyll, Scotland, where Thomas was born on 27 March 1858. Innellan is situated on the western shore of the Clyde estuary some fifty kilometres, as the crow flies, from the city of Glasgow. Thomas's older brother, also named Alexander Campbell Smith but known as Campbell, was born there in 1856²² and a younger brother, Robert Neil Smith, was born in 1861.²³

Christian's grandfather, his wife and their three young sons migrated to Queensland in 1863. Scots-born and trained ministers were common in Presbyterian churches in Australia in the middle of the nineteenth century. Trained men were often unable to obtain a living in Scotland and Scots congregations in Australia generally preferred a minister from 'home'.²⁴ However, it seems that Reverend Smith may have sought a position in Queensland for health reasons. On his retirement from the ministry in 1897, he remarked that 'he came to Queensland in a very delicate state of health ...[but i]n Queensland he in a great measure regained his health.'²⁵ The family were at Gladstone until moving to Rockhampton in May 1864 where Reverend Smith was called to the charge of St Andrew's Presbyterian Church.²⁶ After their arrival in Australia the family was augmented by three daughters. The first, Mary Grace Smith, known as Grace, was born in Queensland on 1 March 1865.²⁷ In September 1868, Reverend Smith resigned from the Rockhampton Presbyterian Church²⁸ and moved to Sydney where he took charge of Scots Church during 1869 and 1870.²⁹ In 1870, the family moved to Melbourne where Reverend Smith took charge of the John Knox Church in 1870.³⁰

¹⁹ Rowland Ward and Malcolm Prentis, *Presbyterian Ministers in Australia 1822-1901: Biographical Register*, p 95.

²⁰ *Messenger of the Presbyterian Churches of Victoria and Tasmania*, 22 November 1901, p 830; Ward and Prentis, *op cit*.

²¹ Ward and Prentis, *op cit*. The Free Church of Scotland broke away from the established Church of Scotland in 1843 mainly because of "the [established] church allowing lay patrons to present ministers to parishes rather than allowing the congregations to call them." Malcolm D Prentis, *Scots in Australia: A Study of New South Wales, Victoria, and Queensland, 1788-1900*, Sydney University Press, 1983, p 221.

²² "Sudden Death of Rev Professor Smith", *Argus*, 24 November 1903, p 3.

²³ He died in 1928 aged 67. *Death Index, 1921-1985*, Victoria.

²⁴ Prentis, *op cit*, pp 240, 243; D Chambers, *Theological Teaching and Thought in the Theological Hall of the Presbyterian Church of Victoria, 1865-1906*, Theological Hall, Ormond College, Parkville, 1967, p 4.

²⁵ "The Rev A C Smith. Farewell Meeting and Presentation", *The Brisbane Courier*, 9 January 1897, p 6.

²⁶ Ward and Prentis, *op cit*.

²⁷ Queensland Pioneers Index, 1829-1889.

²⁸ "Presbytery of Rockhampton", *The Bulletin, Rockhampton*, 3 October 1868; "Presentation to the Rev A C Smith", *The Bulletin, Rockhampton*, 24 October 1868. (This paper had no pagination.)

²⁹ Ward and Prentis, *op cit*.

³⁰ D Macrae Stewart, *The Presbyterian Church of Victoria: Growth in Fifty Years 1859-1909*, DW Paterson and Co, Melbourne, [1909?], p 122; Ward and Prentis, *op cit*.

In Melbourne, two further daughters were born - Eleanor Lucy Campbell Smith in 1870 and Anna Margaret Campbell Smith in 1872.³¹

Christian's father, Thomas, enrolled at Scotch College in 1870 and matriculated at the University of Melbourne in 1874 although he did not enrol until 1877. Academically brilliant, he completed a Bachelor of Arts degree in 1881 and a Master of Arts in 1883. From 1880 to 1890 he worked as a tutor and lecturer at Trinity College, University of Melbourne.³² The subjects he taught were mathematics, natural philosophy and logic.³³ He married Jessie Ochiltree McLennan on 24 August 1882 when he was twenty-four. Jessie was at least a year older than Thomas. Unlike his elder brother, who completed a theological course at the New College, Edinburgh, after a Master of Arts degree at Melbourne University,³⁴ Thomas did not go to Scotland to undertake his theological studies but studied at Theological Hall, Ormond College, Melbourne, in 1887 and 1888. Thomas's younger brother, Robert Neil Smith, did not follow his father and brothers into the Church. After being educated at Scotch College, he completed a Master of Arts followed by a Bachelor of Civil Engineering degree at the University of Melbourne³⁵ in which he was the Argus Scholar in Engineering, awarded to the first-ranked scholar.³⁶ He was Professor of Mining Engineering at the University of Tasmania from August 1900 until 1904 when the course was discontinued because it attracted few students.

Christian's aunts, Grace, Eleanor and Anna did not receive a university education and with three brothers to be educated this is perhaps not unexpected. In the late nineteenth century, the further education of boys usually took precedence over that of girls.³⁷ Furthermore, Christian's grandfather had not remained in Melbourne very long. In 1873, when his daughters were still very young, he moved to Wangaratta in north-eastern Victoria and in 1875 he moved to Daylesford where he remained until October 1885.³⁸ He resigned from the Victorian Church in 1885 and returned to Queensland where he was called to the charge of

³¹ Eleanor died in 1938 aged 68 and Anna died in 1953 aged 81. *Death Index, 1921-1985*, Victoria.

³² Breward, *op cit*, p 663.

³³ James Grant, *Perspective of a Century: A Volume for the Centenary of Trinity College, Melbourne, 1872-1972*, The Council of Trinity College, Melbourne, 1972, p 78.

³⁴ *Messenger of the Presbyterian Churches of Victoria and Tasmania*, 22 November 1901, p 830.

³⁵ Staff card, University of Tasmania Archives. (The Bachelor of Civil Engineering degree was introduced by the University of Melbourne in 1883. It could only be obtained after the completion of an Arts degree. RJW Selleck, *The Shop: The University of Melbourne 1850-1939*, MUP, 2003, p 187).

³⁶ *Messenger of the Presbyterian Churches of Victoria and Tasmania*, 22 November 1901, p 830.

³⁷ Russell, *op cit*., pp 144-150.

³⁸ Stewart, *op cit*., p 122; Ward and Prentis, *op cit*.

Mowbraytown Presbyterian Church in South Brisbane in March 1886.³⁹ Of the alternative – marriage – only Grace married. She married Robert Wilson Hughston, a medical practitioner, in Queensland on 29 November 1889⁴⁰ returning to live in Victoria. Their four children were all born in Victoria – Christian Mary Hughston, known as Mary, in 1891; Eleanor Margaret Hughston in 1894; Catherine Hughston in 1897⁴¹ and Alexander Campbell Smith Hughston in 1904.⁴²

Christian's family background was thus strongly Scottish and, at least on her father's side, firmly Presbyterian. It is notable that men of Scottish birth would play significant roles in Christian's life. Her grandfather, father and uncles were also brilliant scholars who achieved high distinction in their university studies. However, it appears that Christian was the first and only woman in her family to receive a university education.

Early Childhood

Little is known about Christian's early childhood. In the year after her birth her father was appointed founding principal of the Trinity College Hostel for Women, the predecessor of Janet Clarke Hall. The Hostel was established on a trial basis in two dwellings in Trinity Terrace on the west side of Sydney Road (now Royal Parade) near the University. Trinity Terrace comprised five contiguous dwellings and the Smiths lived at number four⁴³ while the students lived next door. The fees for the boarders were fifty guineas a year and there were six students resident in 1886 and four in 1887.⁴⁴ Thomas provided some informal tutorial assistance and allowed the students to use his library.⁴⁵ Both Thomas and Jessie were popular with the students but one can only speculate whether young Christian was also popular with these bright young women. In October 1886, Thomas submitted his resignation in order to pursue his theological studies at Theological Hall but agreed to remain as principal until his replacement was appointed in November 1887.⁴⁶

³⁹ "Pastor and people; Farewell to the Reverend AC Smith", *Brisbane Courier*, 4 January 1897, p 5; Ward and Prentis, *op cit.*

⁴⁰ Queensland Pioneers Index, 1829-1889.

⁴¹ The births of all three daughters are listed in the *Federation Index of Births, Deaths and Marriages, 1889-1901*, Victoria.

⁴² *Edwardian Index of Births, Deaths and Marriages, 1902-1913*, Victoria.

⁴³ Sands and Macdougall, *Melbourne Directory*, 1887.

⁴⁴ Grant, *op cit.*, p 164.

⁴⁵ Lyndsay Gardiner, *Janet Clarke Hall, 1886-1986*, Hyland House, Melbourne, 1886, pp 5-6.

⁴⁶ Grant, *op cit.*, p 164.

Theological Hall had been established in 1866 to provide theological training for local students after the Presbyterian Church had experienced increasing difficulty in securing ministers from Scotland, Ireland or England.⁴⁷ At the time that Thomas Jollie Smith was in attendance, theological teaching was overseen by Professors John Laurence Rentoul and Murdoch Macdonald.⁴⁸ Rentoul taught biblical languages and Christian Philosophy⁴⁹ while Macdonald taught Systematic Theology and Church History.⁵⁰ What is relevant here is the kind of theology that Christian's father absorbed. Macdonald was a traditionalist who regarded the Bible as a 'great textbook containing the answers to all men's problems' and he 'looked forward to the day when the Kingdom of God would be visible on earth'.⁵¹ Rentoul 'was suspect in the eyes of the defenders of 'the old paths''⁵² because he introduced the German tradition of biblical criticism into Theological Hall which provoked vocal hostility.⁵³ As a young minister, Thomas Jollie Smith was one of those who criticised Rentoul for introducing German biblical criticism and he remained a fundamentalist throughout his life.⁵⁴ He completed his theological training in 1888 but it was another two years before he was offered a ministry.

While there is no information about how Christian spent her early years, the story of the daughter of another Presbyterian family provides some insight into what Christian's early life might have been like. Nancy Adams was the grand-daughter of Dr Alexander Morrison, the Principal of Scotch College from 1857 to 1903.⁵⁵ Morrison was therefore the Principal when Christian's father attended Scotch College and would have been well-known to him. Nancy, born in 1890, recalled that 'as soon as we were old enough – and that was pretty soon – we were taken every Sunday to Scots Church... Sunday mornings followed a prescribed pattern... one's best clothes..., threepence each to put in the plate... Outside, the service concluded, the family would greet their friends.'⁵⁶ Nancy also began her religious education at an early age. 'We had to read a chapter [of the Bible] every morning and we had to get one by heart every week in order to repeat it to Grandfather... Looking back, it is almost

⁴⁷ Don Chambers, "Theological Hall", in Stuart Macintyre (ed), *Ormond College Centenary Essays*, MUP, 1994, p 103; Chambers, "Theological Teaching and Thought", *op cit.*, p 5.

⁴⁸ Chambers, "Theological Teaching and Thought", *op cit.*, p 18-19.

⁴⁹ Stuart Macintyre, "John Laurence Rentoul", *ADB*, Vol 11, p 363.

⁵⁰ Chambers, "Theological Teaching and Thought", *op cit.*, p 21, 25.

⁵¹ *Ibid.*, p 25.

⁵² Chambers, "Theological Hall", *op cit.*, p 108.

⁵³ *Ibid.* and Don Chambers, "John Laurence Rentoul", *Australian Dictionary of Evangelical Biography*, p 320.

⁵⁴ Chambers, "Theological Hall", *op cit.*, p 109.

⁵⁵ Nancy Adams, *Family Fresco*, FW Cheshire, Melbourne, 1966, p 11.

⁵⁶ *Ibid.*, p 47.

unbelievable how much and how deeply I was engrossed by religion at the age of seven.’⁵⁷ It is not difficult to imagine that Christian would also have attended church every Sunday and been required by her father to learn passages from the Bible by heart.

‘Send a minister without delay’ to Naracoorte⁵⁸

At the beginning of 1890, the congregation of St Andrew’s Presbyterian Church, Naracoorte, had been without a Minister for about a year when the previous minister had left after accusations that he had made ‘untruthful statements’.⁵⁹ Since then the spiritual needs of the congregation had been met irregularly by Ministers from nearby Presbyterian churches. In April 1890, the members of St Andrew’s Presbyterian Church appealed to the Home Missions Committee of the General Assembly of the Presbyterian Church of Victoria for the supply of a minister. Several weeks later the *Narracoorte Herald* reported that the Committee had ‘decided to send a Minister without delay to take charge for the present.’⁶⁰ That Minister was Christian’s father.

Situated in South Australia not far from the Victorian border, Naracoorte was more than 450 kilometres west of Melbourne and some 400 kilometres south-east of Adelaide. The area was largely settled by Scots migrants who had moved across from the adjoining Port Phillip District of Victoria. ‘With the advantages of good land, capital and experience’ and gold-rush driven high demand for meat and wool they soon prospered.⁶¹ The Scots settlers brought Presbyterianism and Caledonian folk-culture with them. Strong Presbyterian congregations flourished in the south-east of South Australia but they looked for guidance to the Presbyterian Church of Victoria rather than the Presbyterian Church of South Australia.⁶² In 1891, the *Narracoorte Herald* reported a visit by two wine experts who were assessing the soils in the region to determine their suitability for grape growing. John Riddoch, who ran 160,000 sheep on his vast property, began planting vines in 1891.⁶³ Today Naracoorte lies just north of the now famous Coonawarra wine-growing district.

⁵⁷ *Ibid.*, p 48.

⁵⁸ The spelling of Naracoorte has changed over time. In the late nineteenth century it was spelt “Narracoorte” as in *The Narracoorte Herald*. The modern spelling has been used here except in titles.

⁵⁹ *The Narracoorte Herald*, June 7, 1889; *The Narracoorte Herald*, July 9, 1889.

⁶⁰ *The Narracoorte Herald*, April 1, 1890; *The Narracoorte Herald*, April 22, 1890. St Andrew’s Church, Naracoorte, was then within the jurisdiction of the Victorian General Assembly.

⁶¹ Wilfrid Prest (ed), *The Wakefield Companion to South Australian History*, Wakefield Press, 2001, p 402.

⁶² Eric Richards (ed), *The Flinders History of South Australia: Social History*, Wakefield Press, 1986, pp 203-204.

⁶³ James Halliday, *Coonawarra: the history, the vigneron and the wines*, Mead and Beckett Publishing and Yemsey Pty Ltd, 1983, p 12.

The township which was to become Naracoorte was laid out in 1850, as a private township, by William Macintosh one of the landholders in the area. Macintosh named the township Kincaig and it was well-established when, in 1859, the South Australian Government surveyed a township site adjacent to Kincaig and named it Naracoorte. In 1865, the residents of Kincaig protested against the South Australian Government's declared intention to site government services such as the police station, court house and post office in Naracoorte but their protests were unavailing and the buildings were erected in Naracoorte. In 1869, the residents of both communities agreed that the township would henceforth be known as Naracoorte.⁶⁴

St Andrew's Presbyterian Church was the first church to be established, in 1848, on land donated by Macintosh, as most of the landholders in the district were Presbyterian. The trust deed of St Andrew's Church made provision for education and, in 1860, St Andrew's school was opened with forty pupils. It was the first school in the district. However, the school seems to have gone into abeyance sometime in the 1870s and the schoolroom was then used only for Sunday school classes and for church meetings and social evenings. The first public elementary school in Naracoorte was established in 1879. The decade of the 1870s also saw the establishment of a newspaper, the *Narracoorte Herald*, a hospital, and a branch of the Bank of South Australia.⁶⁵

On Sunday 18 May, 1890, the Reverend Thomas Jollie Smith gave his first sermons at St Andrew's Church. The *Narracoorte Herald* reported that both introductory sermons were 'eloquent and learned'. The evening service, in particular, seems to have impressed the *Herald's* correspondent who reported that Smith gave 'an eloquent discourse which showed a large amount of study in connection with modern thought.'⁶⁶ The congregation of St Andrew's Church was evidently impressed by Smith's eloquence for they unanimously decided to invite him to take permanent charge of St Andrew's Church.⁶⁷ He was formally inducted as the pastor of St Andrew's on 9 December 1890.⁶⁸ He was to remain in charge of the church for thirteen years, from Christian's sixth until her nineteenth year. Smith and his family initially lived in rented accommodation in the town because the Old Manse was

⁶⁴ Judith Murdoch and Heather Parker, *History of Naracoorte*, Naracoorte Chamber of Commerce, Naracoorte 1963, pp 14-21.

⁶⁵ *Ibid.*, pp 98, 100, 133-135.

⁶⁶ *The Narracoorte Herald*, May 20, 1890.

⁶⁷ *The Narracoorte Herald*, September 26, 1890.

⁶⁸ *The Narracoorte Herald*, December 5, 1890.

situated two miles out of town, too far for him to carry out his duties effectively. Six years later, in 1896, a new manse would be built within the church grounds.⁶⁹

Christian's father enlivens the intellectual life of Naracoorte

In his history of Scots migration to Australia, Malcolm Prentis notes that the Scots had a love of serious debate.⁷⁰ In this Thomas Jollie Smith was no exception. Shortly after being invited to take charge of St Andrew's, he was present at the foundation meeting of the Naracoorte Debating Club becoming its first chairman. The *Narracoorte Herald* reported that Smith was 'a gentleman of high attainments who will bring to the position the large experiences gained at the Dialectical Society of Trinity College, Melbourne, with which he had long connection.'⁷¹ Perhaps Smith was keen to ensure that there was a similar level of intellectual debate in Naracoorte as he had experienced in Melbourne.

Two debates in particular are worth noting. At the Debating Club's second meeting, on 21 October 1890, another member of the local clergy, the Reverend W M Teape, suggested that he would be prepared to open a debate on Edward Bellamy's *Looking Backward* at the following month's meeting.⁷² Bellamy's book tells the story of a young man in Boston who falls into a deep sleep under the influence of a mesmerist in 1887 and does not wake until the year 2000. When he wakes he finds that Boston had been transformed into a socialist utopia.⁷³ However, the debate on *Looking Backwards* did not take place until June 1891 with Smith himself as the responder whose task was to defend Bellamy's thesis. He is reported as arguing that 'Bellamy, in his book had propounded a workable scheme' and that 'the whole tendency of their [Australian State] legislation for many years was developing in social principles, and so long as the masses held power they would get nearer and nearer to socialistic principles in their mode or government.'⁷⁴ As a skilled debater should be able to take any side in a debate with equal facility, this does not necessarily mean that Smith himself believed what he is reported as saying. He evidently did not convince his audience for 'when the vote was taken, Mr Smith found amid much merriment that he had only one solitary supporter.'

⁶⁹ *The Narracoorte Herald*, February 5, 1895; January 31, 1896; and March 20, 1896.

⁷⁰ Prentis, *op cit.*, p 8.

⁷¹ *The Narracoorte Herald*, October 10, 1890.

⁷² *The Narracoorte Herald*, October 24, 1890.

⁷³ Bruce Scates, *A New Australia: Citizenship, Radicalism and the First Republic*, Cambridge University Press, 1997, p171.

⁷⁴ *The Narracoorte Herald*, June 19, 1891.

Such a poor result did not necessarily reflect the influence of Bellamy's book in the 1890s.⁷⁵ The debate took place at a time of severe industrial confrontation between pastoralists and shearers over freedom of contract and many, if not most, of the audience would have been pastoralists and their families or those whose livelihoods depended on them. It is understandable that such an audience was not receptive to Bellamy's ideas. While it is not to be supposed that six-year old Christian would have been present at this debate, it is clear that her father had read Bellamy's book and there may have been a copy in his personal library. It is possible that Christian read it sometime during her youth.

The next debate of interest, in which Smith was also the responder, occurred in March 1892. The topic for the debate was 'that the tax called the Single Tax is the best method of taxation for South Australia.' The single tax was proposed by Henry George in his book *Progress and Poverty*. George's solution to poverty was 'to tax away the unearned gain in land values that did not derive from the effort or intelligence of the owner.'⁷⁶ In addition, George believed that no other taxes would be necessary, hence his land tax proposals became generally known as the 'single tax'. When Henry George visited Australia in 1890 his activities were widely reported and the *Narracoorte Herald* noted that 'Mr Henry George is receiving every attention in Sydney.'⁷⁷ Single tax leagues mushroomed in suburban Adelaide but rural landowners in South Australia were less enthusiastic. They established the Producers' Defence League which aimed to use its 'influence to counteract the operations of the Single Tax Society.'⁷⁸

In the debate conducted by the Naracoorte Debating Club, Thomas Jollie Smith responded for the negative, rejecting the proposition 'that the tax called the Single Tax is the best method of taxation for South Australia.'⁷⁹ He argued that Henry George was wrong in claiming that landowners alone profited by the unearned increment in the value of land. Speculative profits by investors could also result in enormous gains in wealth which would not be reached under the proposed single tax, thus 'the Single Tax would operate unfairly as it would only touch one class of wealth.' Perhaps he had in mind the land speculation that he had seen in Melbourne during the 1880s in which many had made (and lost) huge fortunes. The

⁷⁵ Robin Gollan, "The Australian Impact", in Sylvia E Bowman (ed), *Edward Bellamy Abroad: An American Prophet's Influence*, Twayne Publishers, New York, 1962, Chapter 4.

⁷⁶ John Kenneth Galbraith, *A History of Economics: the Past as Present*, Penguin Books, 1989, p 167.

⁷⁷ *The Narracoorte Herald*, March 11, 1890.

⁷⁸ *Adelaide Advertiser*, December 17 1889.

⁷⁹ *The Narracoorte Herald*, March 18, 1892.

published summary of his debating points suggests that Smith was also familiar with the Fabian view that land was not the only source of unearned wealth.⁸⁰ When the vote was taken after the debate the proposition ‘that the tax called the Single Tax is the best method of taxation for South Australia’ was rejected. Although Christian would have been only seven years old at the time of this debate, there is evidence that she did read Henry George’s book at some time during her youth.

The report of this debate generated some correspondence in the columns of the *Narracoorte Herald* supporting the concept of the Single Tax and challenging Smith’s argument.⁸¹ It was the forerunner of several public controversies in which Smith became embroiled. The tone of the newspaper reports of some debates and such letters as they generated later caused Smith some concern. He complained that the reports tended to give the club a political dimension which was not his intention in founding the club, which was for educational not political reasons. He regretted that if the club became political he would have to sever his connection with it.⁸²

In September 1891, a meeting of members was called to consider new rules for the Debating Club. The *Narracoorte Herald* reported that ‘in putting the various propositions and amendments, the Chairman [Rev T J Smith] observed strict parliamentary practice which often non-plussed the members voting.’⁸³ Perhaps the seeds of the club’s eventual demise, for lack of interest, were sown at this meeting. People were possibly discouraged from attending by adherence to strict procedure. In July 1893, after a series of poorly attended meetings, the Debating Club decided to call a special meeting of members ‘to decide whether the club shall have a lingering death or be as flourishing an institution as it was a few months ago.’⁸⁴ While the members agreed that the club should continue,⁸⁵ attendances continued to be irregular. Early in 1895, the members considered another proposal to wind up the club. Smith argued that it was not necessary to have a large membership to be successful so long as there were sufficient members for the club to meet its liabilities. A large majority of members voted to continue the club but their support was short-lived. While the debates set down for February and March took place as planned, subsequent meetings lapsed for want of a quorum. In

⁸⁰ Henry Pelling, *The Origins of the Labour Party 1880-1900*, Clarendon Press, Oxford, 1965, pp119-120. GB Shaw noted the “undesirable distinction between incomes arising out of rent and those coming from interest.”

⁸¹ *The Narracoorte Herald*, March 25, 1892.

⁸² *The Narracoorte Herald*, February 23, 1893.

⁸³ *The Narracoorte Herald*, September 18, 1891.

⁸⁴ *The Narracoorte Herald*, July 21, 1893, p 282.

⁸⁵ *The Narracoorte Herald*, August 18, 1893, p 322.

October 1895, a special meeting of members decided to wind up the Club 'on account of the want of interest in the last six months.'⁸⁶

Smith's dissatisfaction with Debating Club activities may have been behind his next educational venture - to establish a Literary Society in Naracoorte.⁸⁷ The Literary Society received sufficient support to be established in April 1894 and some three months later Smith was also reported as supporting the re-establishment of the Philharmonic Society and the Dramatic Club because he wanted 'to see everything in the way of educational progress in the town and he hoped that the [Literary] Society would be used for that purpose.'⁸⁸ However, as with the Debating Club, Smith had very firm views about how these clubs should operate.

...While Christian's mother plays a supporting role

While Christian's father was establishing himself as an intellectual leader in the community, Christian's mother supported her husband as was expected of a clergyman's wife. She was first reported in the *Narracoorte Herald* in March 1891 when the ladies of the Presbyterian Church held a Fruit, Cake and Produce Fair to raise funds to pay for new fencing around the church. The fair was followed by an evening entertainment at which Mrs T J Smith contributed a humorous reading which 'brought the house down' and a song, 'Annie Laurie'.⁸⁹ At a Burns' night entertainment, held in St Andrew's schoolroom in September, Mrs T J Smith sang three Scottish songs, 'Afton Water', 'Scots Wae Hae' and 'Bonnie Wee Thing'.⁹⁰ At nearly every monthly evening concert of St Andrew's Guild during their time in Naracoorte, Christian's mother is noted as contributing one or more songs, usually Scottish folksongs, or a performance on the piano, either solo or as part of a duet or trio. She also participated in Literary Society meetings after that Society was established.

At the first meeting of the Literary Society in 1895 the members discussed the work of George Eliot. Christian's mother read a paper on Eliot's poems and her father gave a talk on Eliot's life and writings in which he 'placed her in the first rank of English women writers.'⁹¹ Whether almost ten year old Christian also attended is unknown. In March, the Literary Society heard papers on Japan and Smith 'gave some interesting information about Old

⁸⁶ *The Narracoorte Herald*, October 18 1895.

⁸⁷ *The Narracoorte Herald*, April 10, 1894.

⁸⁸ *The Narracoorte Herald*, June 29, 1894.

⁸⁹ *The Narracoorte Herald*, March 24, 1891.

⁹⁰ *The Narracoorte Herald*, September 22, 1891.

⁹¹ *The Narracoorte Herald*, February 1, 1895.

Japan.’⁹² At the end of the next meeting, Smith spoke to the gathering about the educational benefits of literary societies. He argued that these benefits could only be gained by participation and he hoped that those who had not yet done anything other than listen would change their ways and make a contribution.⁹³

Smith’s words may have alarmed some of those who were singled out as not being active as attendances began to decline. At the next monthly meeting, the Society considered the works of Rudyard Kipling⁹⁴ but there appears to have been no meeting in May or June. The July meeting, which met to consider the works of the Bronte sisters and at which Christian’s mother read a paper on Charlotte Bronte’s ‘Villette’, was poorly attended.⁹⁵ At the September meeting, Smith once again outlined the educational rather than social objective of the society and urged members to take a more active interest.⁹⁶ To no avail. There was again a small attendance at the October meeting and Smith advised that the Society should be wound up for lack of interest. He was reported as ‘regretting that now the Debating Club had ceased to be there was no other association of the kind in the town.’⁹⁷ While the Debating Club had lasted five years, the Literary Society had lasted little more than a year.

Not only was Smith keen to improve the intellectual life of the town, but he was also active in helping to deal with its social problems. In 1891, he founded the Friendly Society which was designed ‘to cope with the problem of young men out of employment and with little occupation in their enforced leisure during the nineties.’⁹⁸ The 1890s was a period of economic depression in eastern Australia, with the failure of banks and other financial institutions. After a decade of heavy investment in improvements such as fencing, financed by mortgaging their properties, the pastoral industry was already in trouble when it was hit by a steep fall in wool prices. The fall in pastoralists’ incomes and the failure of many pastoralists affected employment levels in rural areas.⁹⁹ As a small town in a largely pastoral area, Naracoorte was exposed to these developments. The financial difficulties of the pastoralists also had an impact on the revenue of St Andrew’s Presbyterian Church as most of

⁹² *The Naracoorte Herald*, March 1, 1895.

⁹³ *The Naracoorte Herald*, March 29, 1895.

⁹⁴ *The Naracoorte Herald*, May 3, 1895.

⁹⁵ *The Naracoorte Herald*, August 2, 1895.

⁹⁶ *The Naracoorte Herald*, September 27, 1895.

⁹⁷ *The Naracoorte Herald*, November 5, 1895.

⁹⁸ Judith Murdoch and Heather Parker, *op cit.*, p 166.

⁹⁹ B K de Garis “1890-1900” in Frank Crowley (ed), *A New History of Australia*, William Heinemann, Melbourne, 1974, pp216-220.

the landholders in the district were Presbyterian and supported the Church financially.¹⁰⁰ When some landholders failed to pay their usual financial contribution, the Presbyterian Church finances fell into deficit and economies had to be made.¹⁰¹

The young men who joined the Friendly Club were evidently appreciative of Smith's support because, in July 1893, they held a social function at which Smith was thanked for his work in establishing and maintaining the Club.¹⁰² They presented him with a silver mounted pipe and tobacco pouch. Smith responded with pleasure and surprise, saying that 'he was not in the habit of getting testimonials for wherever he went he had lived with too heavy a hand and in consequence had failed to make many friends.' He told the members he had received a testimonial on only one occasion previously, and that was when he was about to be married and the students of Trinity College had given him a present. While Smith thus exhibited some self-awareness, it does not seem to have induced him to change his domineering ways as evidenced by the demise of the Debating Club and the Literary Society.

Smith also hoped that 'whether he would stay in Naracoorte or go away that all members would keep the Club going.' Smith's reference to going or staying reflected the fact that his initial appointment was due to expire at the end of 1893. Accordingly, the congregation met in July to determine the procedure for filling the position. They were asked to consider whether to invite Smith to continue as their minister for another three years.¹⁰³ Before this was confirmed, however, Thomas Jollie Smith revealed another dimension of his didacticism in several sermons and speeches which resulted in some controversy.

At a morning service on 19 March 1893, he condemned 'the running of lotteries, which was against the law' in order to raise funds for community purposes, and 'turning the local Institute into a saloon with the police looking on.'¹⁰⁴ He criticised those, whose responsibility was to uphold the law, including members of his own congregation, for taking part in such activities. As the *Narracoorte Herald* commented 'Mr Smith's outspoken remarks have caused considerable sensation, some of the erring Justices [of the Peace] being present.' Again Smith's reported remarks engendered some correspondence in the columns of the *Narracoorte Herald*. One correspondent implied some hypocrisy on the part of the Presbyterian minister, pointing out that at 'a bazaar held last Thursday in Merino (Western

¹⁰⁰ Judith Murdoch and Heather Parker, *op cit.*, p 133.

¹⁰¹ *The Narracoorte Herald*, February 5, 1895.

¹⁰² *The Narracoorte Herald*, July 21, 1893.

¹⁰³ *The Narracoorte Herald*, July 28, 1893, p292.

¹⁰⁴ *The Narracoorte Herald*, March 21, 1893.

District of Victoria) to clear the debt off the Presbyterian Church there. ...all the paraphernalia used at the Narracoorte Race Bazaar last week for raising money was used'.¹⁰⁵ Another correspondent, signing himself as 'Not a Presbyterian', defended Smith's stand arguing that "[i]f, of those who stand up in the pulpit, there were more of the Smith type, the complaint that 'only women fill the churches' would soon be a thing of the past.'¹⁰⁶ However, this incident was to pale into insignificance after Smith's next major expression of his views during a sermon on 'teetotalism'.

On July 2, 1893, he preached a sermon on temperance, total abstinence and teetotalism in which he argued that 'teetotalism is a false god and a folly.' Defining temperance as 'a discipline of mind and a resulting habit of the body' and total abstinence as 'either a mere form of temperance or a religious vow', he argued that 'teetotalism is a theory with regard to alcohol and a resulting teaching with regard to the use of it.' Basing his argument on a close reading of the Bible, he contended that teetotalism went further than the advocacy of temperance or total abstention, by asserting that 'drink is a curse and to touch it is a sin. But the Scriptures teach that it is the love of drink that is the sin.' Those who advocate teetotalism, he argued, 'hurl abuse at moderate drinkers...but the Scriptures teach us that Jesus himself was a moderate drinker.' He ended his sermon by stating that he had not spoken his whole mind on the subject 'but for me personally, [teetotalism] is so hateful, and so false that I am liable to be misunderstood when speaking of it.'¹⁰⁷ Smith's sermon was widely reported, unleashing a stream of letters to the editor of the *Narracoorte Herald*. Such was the demand for copies of his sermon that the *Narracoorte Herald* printed it as a pamphlet. The newspaper reported in August that Mr Smith's 'temperance sermon has certainly been the best discussed in the South East for many a long day, not only in newspapers, pulpit and platform but in private circles.'¹⁰⁸

Despite the widespread public controversy, the congregation unanimously resolved to invite Smith to continue his ministry. 'Mr Smith's labours among his people ... had been highly eulogised' by various members of the congregation at its meeting in September.¹⁰⁹ At the morning service on 15 October 1893, Smith announced his acceptance of the congregation's invitation and hoped he would be their minister for many years. He reassured them 'not to be too anxious over his salary as he was quite willing to take whatever they could afford.'

¹⁰⁵ *The Narracoorte Herald*, March 24, 1893.

¹⁰⁶ *The Narracoorte Herald*, March 28, 1893.

¹⁰⁷ *The Narracoorte Herald*, July 4, 1893.

¹⁰⁸ *The Narracoorte Herald*, August 4, 1893.

¹⁰⁹ *The Narracoorte Herald*, September 28, 1893.

Because of the economic depression the church had been having difficulty in raising enough funds to meet its expenses but Smith told the congregation that they should not beg money for support but take only voluntary contributions from those who worshipped in the church,¹¹⁰ a theme he returned to on several occasions in later years.

In 1896, Christian's father decided to take a break from his congregation in Naracoorte. He arranged to exchange pulpits for three months with his father who was in charge of Mowbraytown Presbyterian Church in South Brisbane.¹¹¹ Christian's mother did not accompany him to Brisbane and presumably neither did Christian. Mrs TJ Smith is reported as rendering a song at a social evening in St Andrew's schoolroom on 30 April at which the Reverend AC Smith was also present.¹¹² This may have been the first time that Christian had met her grandfather as he had moved to Queensland when she was only a baby. Her grandfather was well received by his temporary congregation, with large and appreciative attendances at his sermons.¹¹³

In 1899, Christian's parents were partially responsible for founding another organisation which had welfare aims. In August, a letter appeared in the *Narracoorte Herald* inviting the women of Naracoorte to a meeting with the object of establishing a Ladies Benevolent Society 'which would supplement the charitable efforts of the churches and individuals, [and] prevent clashing or over-lapping of effort.' The letter was signed by the Reverend T J Smith, two of his clergy colleagues, the Chairman of the Naracoorte District Council and the local doctor.¹¹⁴ Eighteen ladies, including Christian's mother, responded to the invitation. Smith also attended meeting prepared with 'a number of resolutions to found the society.' After some discussion about the need for a new society, the Ladies Benevolent Society was duly formed.¹¹⁵ Ladies benevolent societies were common in the nineteenth century as participation in philanthropic organisations was generally the only 'public work' that was acceptable for 'ladies'.¹¹⁶ Two years later, in August 1901, the *Narracoorte Herald* noted that Mrs T J Smith had been elected Treasurer of the Naracoorte Ladies Benevolent Society.¹¹⁷

¹¹⁰ *The Narracoorte Herald*, October 20, 1893.

¹¹¹ *The Narracoorte Herald*, April 14, 1896.

¹¹² *The Narracoorte Herald*, May 1, 1896.

¹¹³ *The Narracoorte Herald*, June 23, 1896.

¹¹⁴ *The Narracoorte Herald*, August 8, 1899.

¹¹⁵ *The Narracoorte Herald*, August 11, 1899.

¹¹⁶ Penny Russell, *op cit.*, p 169.

¹¹⁷ *The Narracoorte Herald*, August 30, 1901.

Enter Christian

Christian's father and mother were frequently mentioned in the reports of the *Narracoorte Herald* during their first five years in residence, but until 1896 Christian was invisible. In March 1891, Christian would have turned six and have been eligible for school attendance but she was educated at home.¹¹⁸ There was a state elementary school in Naracoorte but her father may have been among those who regarded the secular state schools as 'godless institutions'¹¹⁹ and therefore not good enough for his daughter. It was probably her mother who took Christian's primary education in hand as was generally the practice.¹²⁰ Christian's daily routine can only be imagined but as her mother would most likely have had parish and other social duties to perform in the afternoons it possibly involved lessons in the mornings, followed by piano lessons and practice in the afternoons.¹²¹ Whether her mother was also responsible for commencing Christian's musical education is not clear. Ten years later Christian's music teacher was reported to be Mrs Sampson.¹²² In the afternoons Christian may also have accompanied her mother on parish visits and, after it was founded, visits on behalf of the Ladies Benevolent Society. Perhaps she helped her mother with sewing and needlework as she was later to demonstrate considerable skill as a seamstress.

In December 1893, her father inserted an advertisement in the *Narracoorte Herald* advising that he proposed to start a class for the study of New Testament Greek. There was to be no fee for the class and anyone who was interested, 'whether men or women, either boys or girls, will be admitted.'¹²³ Classes were to be held on two Monday evenings each month and it is possible that Christian was also a member of the class. Other evenings may have been spent quietly reading. Her father was known to have been a voracious reader¹²⁴ and Christian may have also embraced the habit. Nancy Adams, mentioned above, recalled that she 'read everything...One could never get enough to read.'¹²⁵ Her father's extensive library would, however, have provided Christian with a wealth of reading material. Judging by a public

¹¹⁸ *Enrolment Record*, Presbyterian Ladies College (Melbourne) Archives.

¹¹⁹ Marjorie Theobald, *Knowing Women: Origins of Women's Education in Nineteenth Century Australia*, Cambridge University Press, 1996, p 199.

¹²⁰ *Ibid.*, p 131.

¹²¹ This is based on descriptions in Margaret Kiddle, *Men of Yesterday: A Social History of the Western District of Victoria 1834-1890*, Melbourne University Press, 1961, pp 99, 297 although it is acknowledged that Kiddle is referring to an earlier era.

¹²² *The Narracoorte Herald*, November 11, 1902.

¹²³ *The Narracoorte Herald*, December 1, 1893.

¹²⁴ Ian Breward, "Thomas Jollie Smith", *ADB*, Vol 11, p 664.

¹²⁵ Adams, *op cit.*, p 56.

lecture he gave in 1902 on novels and novelists¹²⁶ it comprised volumes by most of the well-known writers of the nineteenth century.

Christian's Sundays would have been spent attending the morning and evening church services and Sunday School. Indeed, she was first mentioned in the *Narracoorte Herald* in 1896 in relation to her Sunday School achievements. The Presbyterian Church of Victoria held annual examinations under the 'Allan Bequest Scheme', a fund established under the will of a former member of the Presbyterian congregation in Victoria to encourage excellence in religious education. Scholarships - £50 for two years for boys and £25 for two years for girls – were awarded to the pupil in the Sunday School who had achieved the highest marks in the prescribed examinations.¹²⁷ Christian sat for the Junior Division examination for the first time in 1896, when she was eleven years old, and achieved a pass result. Two other members of the St Andrew's Sunday school class achieved credits in the same examination.¹²⁸ In January 1897, the *Narracoorte Herald* reported that Christian had been awarded a Sunday school prize with respect to her work in 1896. She was ranked second among the Fourth Class girls.¹²⁹ Christian was to be noted among the Sunday School prize-winners in every year from 1897 to 1902.

In July 1897, the *Narracoorte Herald* reported a visit by authorities from Adelaide University who were investigating the need for a local examination centre for the public examinations held by the university. The headmaster of the local school had requested that a centre be set up in Naracoorte so that he could present some of his pupils for the preliminary examination of the University, an examination which was taken after pupils had completed their compulsory education.¹³⁰ Ten candidates were prepared for the preliminary examination in 1897, nine from the Naracoorte Public School and one who was privately tutored, and all passed.¹³¹ In September 1898, there were fifteen candidates for the preliminary examination held in Naracoorte - eleven prepared by the Naracoorte Public School and four who were prepared privately. Christian was one of the four private candidates.¹³² However, when the results were reported in October, Christian was not listed among those who passed.¹³³ She

¹²⁶ Discussed in more detail below.

¹²⁷ D Macrae Stewart, *The Presbyterian Church of Victoria: Growth in Fifty Years 1859-1909*, DW Paterson and Co, Melbourne, [1909?], p 52.

¹²⁸ *The Narracoorte Herald*, September 11, 1896.

¹²⁹ *The Narracoorte Herald*, January 12, 1897.

¹³⁰ *The Narracoorte Herald*, July 20, 1897.

¹³¹ *The Narracoorte Herald*, September 21, 1897.

¹³² *The Narracoorte Herald*, September 9, 1898.

¹³³ *The Narracoorte Herald*, October 4, 1898.

resat the examination early in 1899 and passed successfully at the second attempt.¹³⁴ In April 1899, and again in November, she contributed a piano selection at a Presbyterian Church social event.¹³⁵ It is clear that Christian was now, at the age of fourteen, taking her place in Naracoorte Presbyterian society as the daughter of the minister. She became a regular performer at Presbyterian social gatherings but there were no reports indicating her presence at any other social events in Naracoorte.

Thomas Jollie Smith revealed his belief in the need for parents to compel their students to learn their catechism and study the Bible in a sermon entitled ‘Religion as a Science.’¹³⁶ The purpose of his somewhat long-winded exposition was to make a case for religion as an educational science, emphasising the role of parents in ensuring that their children studied their catechism and Bible each day. Smith remarked that ‘a parent may insist that her daughter shall practice [the piano] an hour every day and yet thoughtlessly refuse to insist that she should learn her catechism every day.’ Smith goes on to argue that ‘it is certain that children will not learn the educational sciences except under pressure; and this is especially true of religion... We must drill and discipline our children in religion, just as we would in ...grammar or language.’ It can be imagined, therefore, that Smith applied these principles to his daughter, expecting her to devote part of each day to studying the Bible and examining her on what she had learned. Her performance is reflected in her Sunday School results. In the *Narracoorte Herald’s* 1900 report on St Andrew’s Sunday School annual prize-giving, Christian was again among the prize-winners in the Fourth Class with a score of 542 out of a possible 600 marks, representing a creditable 90 per cent.¹³⁷ At the beginning of the following year the report on the Presbyterian Sunday School prize-giving again recorded an outstanding performance by Christian. Now in the Fifth Class, she achieved 585 out of a possible 600 marks, representing 97.5 per cent, and was ranked first in the class.¹³⁸

In 1901, Christian was nearing the end of her secondary education. In April 1892, her father had given a public lecture on the importance of educating women to support themselves if necessary¹³⁹ so there would have been no parental opposition to higher education and the fact that she had no brothers meant there was no competition for scarce family resources. However, opportunities for further education could only be pursued if she left Naracoorte. At

¹³⁴ *The Narracoorte Herald*, March 31, 1899.

¹³⁵ *The Narracoorte Herald*, April 28, 1899, and November 24, 1899.

¹³⁶ *The Narracoorte Herald*, April 11, 1899.

¹³⁷ *The Narracoorte Herald*, January 12, 1900.

¹³⁸ *The Narracoorte Herald*, January 11, 1901.

¹³⁹ *The Narracoorte Herald*, April 15, 1892.

that time, there was no state funded secondary education system outside Adelaide. Apart from the Advanced School for Girls and Norwood High School in Adelaide, secondary education was the province of private and denominational schools.¹⁴⁰ There were several private girls' schools in Adelaide operating at that time.¹⁴¹ Unley Park School, established in 1885, prepared students for the public examinations conducted by the University of Adelaide. It was denominationally a Church of England school and scholarships were available to the daughters of Anglican clergymen. Hardwicke College, which opened in 1882, specialised in teaching music but also prepared students for the public examinations. It had accommodation for 120 students and forty boarders and was patronised by many Methodist families. Dryburgh House was opened in 1876 by the widow of a Congregationalist minister and by 1897 was also preparing girls for the public examinations. The school also had accommodation for boarders. Tormore House School opened in 1897 with a strong emphasis on academic work. It also provided for boarders. The school was denominationally Church of England and scholarships were available for girls who had attended Church of England primary schools. However, there was no reputable Presbyterian girls' school in Adelaide at this time.¹⁴²

If Christian was to continue her education while her parents remained in Naracoorte it would be necessary for her to become a boarder. Perhaps this explains her father's decision, in May 1901, to exchange pulpits for a month with his colleague who was in charge of St Andrew's Presbyterian Church, Adelaide.¹⁴³ This may have provided the opportunity to investigate the available educational opportunities in Adelaide and perhaps also the possibility of himself moving to Adelaide. If so, he must have been disappointed with what he found as he was to remain in Naracoorte for a further two years and Christian continued her education at home. Towards the end of 1901, she sat for the Senior Public examination (equivalent to matriculation) held by the University of Adelaide. Christian passed in English Literature, English History, Greek, Latin, Geometry and Trigonometry.¹⁴⁴ She also sat for Arithmetic and Algebra (one subject) but failed.¹⁴⁵ She was listed as attending 'St Andrew's College,

¹⁴⁰ G S Browne (ed), *Education in Australia: A Comparative Study of the Educational Systems of the Six Australian States*, Macmillan and Co, London, 1927, pp 175-177.

¹⁴¹ The following details are from Helen Jones, *Nothing Seemed Impossible: Women's Education and Social Change in South Australia, 1875-1915*, University of Queensland Press, 1985, pp 68-79.

¹⁴² A Presbyterian Ladies College was not established in Adelaide until 1922.

¹⁴³ *The Naracoorte Herald*, May 24, 1901, p 163.

¹⁴⁴ *The Naracoorte Herald*, December 27, 1901, p 440.

¹⁴⁵ *Enrolment Record*, Presbyterian Ladies College (Melbourne) Archives.

Narracoorte',¹⁴⁶ a rather grand title for what was in reality home-schooling. St Andrew's College, Naracoorte, was the schoolroom attached to St Andrew's Presbyterian Church.¹⁴⁷

Thomas Jollie Smith's efforts to enrich the intellectual life of the people of Naracoorte were again demonstrated in a public lecture entitled 'On Novels and Novelists' in January 1902 reported in full in the *Narracoorte Herald*.¹⁴⁸ Limiting himself to novels written in the English language by nineteenth century British writers, he classified 105 writers into ten classes and ranked them in order of merit in each class.¹⁴⁹ Assuming that Smith had read sufficient works by each author to be able to make a judgement, the list demonstrates how broadly his reading ranged - from Sir Walter Scott to H Rider Haggard. Pre-eminent place is given to Sir Walter Scott whose twenty-five 'Waverley' novels established the historical novel as the dominant style of fiction in the first half of the nineteenth century.'¹⁵⁰ Thackeray, Dickens, Eliot and Hardy were also highly regarded by Smith. The so-called 'kailyard' [cabbage-patch] school of writers, who wrote with 'syrupy sentimentalism about Scottish (lowland) rural life'¹⁵¹ is also well represented - George MacDonald, Ian McLaren, William Black, SR Crockett, and JM Barrie were the main proponents of this style – suggesting that Smith regarded Scottish life with some nostalgia.

Another significant group were writers of the 'condition of England' or 'social problem' school who wrote about the conditions - for example, poverty and inequality - affecting the working class, with the idea that fiction might play a part in social reform. Elizabeth Gaskell, Charles Dickens, Benjamin Disraeli and Charles Kingsley all wrote novels about social problems. A related subgroup were the writers of the so-called 'Newgate novels' - for example, Charles Dickens, Edward Bulwer-Lytton, and William Ainsworth - which examined the social conditions that caused crime. There were also writers of the 'fashionable' or 'silver fork' school - Disraeli, Bulwer-Lytton - who wrote novels about the lives of the rich and famous. The contrasts between the lives of the rich and poor would have been apparent to the discerning reader. There are, however, few of the 'new woman' novels which were very popular in the early 1890s. Only Olive Schreiner's *The Story of an African Farm* (1883) is in the list.

¹⁴⁶ "The University Senior Public Examination", *Adelaide Advertiser*, 25 December 1901, p 9.

¹⁴⁷ Thus she was not "educated in Adelaide" as stated in Joy Damousi, "Christian Brynhild Ochiltree Jollie Smith" *ADB*, Vol 11, p 641.

¹⁴⁸ *The Narracoorte Herald*, January 21, 1902, p 26; January 28, 1902, p 38; January 31, 1902, p 44.

¹⁴⁹ The complete list as proposed by Smith is in the Appendix 1.

¹⁵⁰ *Ibid.*, p 482.

¹⁵¹ John Sutherland (ed), *The Longman Companion to Victorian Fiction*, Longman, 1988, p 343.

Smith's library probably included all of those authors he listed. Thus Christian grew up in a household with a variety of books available to her but, as Martyn Lyons notes, while 'Australian readers grew up with Walter Scott, Dickens and Thackeray...they brought their own assumptions and experiences to the act of reading, appropriating the texts in unpredictable ways.'¹⁵² In his analysis of individual political development in the 1890s, Bruce Scates has also noted the importance of reading to the development of 'anarchist, socialist and single taxer'¹⁵³ and that 'good fiction predominated, particularly Scott and Dickens.'¹⁵⁴ It is a pity that we cannot be more definite about what Christian read or what influence it may have had on her later views but she would not have been the first to have had her social consciousness raised by such reading.

In October 1902, Christian sat for and passed the senior grade in the music examinations set by Trinity College, London.¹⁵⁵ She also sat for the Higher Public Examination conducted by the University of Adelaide. The results of this examination, which students sat following the Senior Public Examination, were used to rank candidates in order of merit. The list of highest ranked candidates was used as the basis for selecting students for university scholarships. Christian, again listed as attending St Andrew's College Naracoorte, achieved honours in English Literature. She was ranked equal second with two other girls. Given her father's lecture on English novels and his extensive library, it is perhaps not surprising that Christian did so well in English literature. The girl who was ranked first in the subject was a student at the Advanced School for Girls. Christian only achieved a pass in her other subject, history,¹⁵⁶ therefore she did not qualify for a University of Adelaide scholarship. She was also again awarded a prize in the Fifth Class of the Sunday School for 1902. However, her achievement was not as good as it had been in previous years - out of a maximum of 600 points she gained only 474 or 79 per cent.¹⁵⁷ She also gained a credit in the Allen Bequest scheme examinations held in July 1902.

These brief glimpses of Christian's life in Naracoorte suggest that she was largely sheltered from the outside world during her first eighteen years. By drawing on Joy Hooton's study of

¹⁵² Lyons, *op cit.*, p 343.

¹⁵³ Scates, "A New Australia", *op cit.*, p 38.

¹⁵⁴ *Ibid.*, p 44.

¹⁵⁵ *The Naracoorte Herald*, November 11 1902, p 445.

¹⁵⁶ "The University Public Examinations Board, Higher Examination 1902, *Adelaide Advertiser*, 23 December 1902, p

¹⁵⁷ *The Naracoorte Herald*, February 6 1903, p 52.

women's autobiographical writing in the nineteenth century we might glean some details from the experiences of these women to add to what we imagine Christian's life was like. One woman recalled that she 'lived in a protected world, not even attending the local school.' Another recalled 'the dullness of home life presided over by father' and yet another bemoaned 'the perverse assumption that daughters were born to help shoulder the mother's burden.'¹⁵⁸ Like Nancy Adams, Christian may have sought solace in her father's library where books provided a window to other worlds and other ideas. Growing up in a small town like Naracoorte would have meant that there were limited social opportunities outside her parents' social circle, compared with Adelaide or Melbourne, even if her parents had allowed her to take part. What Christian actually thought about her childhood we cannot now know but many years later she did say that she wanted to give any children she might have the freedom that she had not experienced.¹⁵⁹

To Presbyterian Ladies College, Melbourne

Christian enrolled at the Presbyterian Ladies College (PLC) in Melbourne in first term 1903.¹⁶⁰ She was almost eighteen which, while it might seem rather old now, was not unusual in the nineteenth and early twentieth century.¹⁶¹ While it may be an extreme example, Catherine Deakin, the sister of Alfred Deakin who was one of Australia's early prime ministers, was twenty-five when she spent a year at PLC in 1875, its first year of operation.¹⁶² Nettie Higgins, already a student at PLC when Christian arrived and about to become a lifelong friend, was also in her eighteenth year. Another of Christian's classmates, Hilda Bull, remained at PLC until she was nineteen.¹⁶³

The evidence suggests that Christian was accompanied by her mother when she travelled from Naracoorte to Melbourne early in 1903. In June, the *Narracoorte Herald* noted that Mrs TJ Smith had returned to Naracoorte on 24 June, having been away for five months.¹⁶⁴ This timing coincides with the need to accompany Christian to Melbourne and see her settled into the school. In March, shortly after he announced that he intended to resign, her father also spent two weeks in Melbourne during which he preached at several large Presbyterian

¹⁵⁸ Joy Hooton, *Stories of Herself When Young: Autobiographies of Childhood by Australian Women*, Oxford University Press, Melbourne, 1990, pp 17, 27, 46, 136.

¹⁵⁹ Nettie Higgins to Vance Palmer, 5 May 1912, *Palmer Papers*, NLA MS 1174/1/784.

¹⁶⁰ Enrolment Book, Presbyterian Ladies College Archives.

¹⁶¹ Jones, *op cit.*, p 74.

¹⁶² Theobald, *op cit.*, p 31.

¹⁶³ DR Walker, "Thomas Louis Buvelot Esson", *ADB*, Vol 8, p 440.

¹⁶⁴ *The Narracoorte Herald*, 26 June 1903, 3 July 1903.

Churches which had vacancies.¹⁶⁵ However, it would be two more years before he was accepted by a congregation.

In 1903 PLC was located at its original site in Albert Street, East Melbourne, a short distance north of Victoria's Parliament House which then housed the new Federal Parliament. According to Kathleen Fitzpatrick, the driving forces behind the establishment of PLC in 1875 were the movement towards secondary and higher education for girls which was already well established in England and Scotland and the demands of Presbyterian parents who wanted their daughters to have access to educational opportunities similar to that which their sons were receiving at Scotch College, in an environment where they were protected from meeting 'the feminine equivalent of Tom, Dick and Harry.'¹⁶⁶ Marjorie Theobald, however, has questioned this version of the school's foundation, arguing that 'there is no evidence that the original planners intended to challenge the conventional wisdom in the education of girls' as the initial constitution for the school contained 'a comprehensive accomplishments curriculum.'¹⁶⁷ Whatever were the intentions or dilemmas of its founders, by the end of the nineteenth century PLC had established a reputation for achieving outstanding results in the annual matriculation examination conducted by the University of Melbourne and subsequently in the number of its students who graduated from the University.¹⁶⁸ It is probable that Christian was enrolled at PLC to improve the standard of her examination results. With better results she might hope to gain a university exhibition or scholarship which would help to pay for her university education.

As her parents were still living in Naracoorte, Christian was enrolled as a boarder and she remained a boarder for the two years that she attended PLC. Boarding fees were twenty-five guineas per quarter for senior resident boarders.¹⁶⁹ There were around forty boarders in residence in 1903.¹⁷⁰ From a series of advertorials published in the Presbyterian newspaper, *The Messenger*, in 1905, it is possible to gain a glimpse of life as a boarder although it must be said that, as the purpose of these articles was to encourage enrolments, the descriptions were dazzlingly positive. The boarding facilities were designed 'to provide a comfortable and

¹⁶⁵ *The Naracoorte Herald*, 31 March 1903.

¹⁶⁶ Kathleen Fitzpatrick, *PLC Melbourne: The First Century. 1875-1975*, PLC Burwood, 1975, pp 32-35.

¹⁶⁷ Marjorie Theobald, "The PLC Mystique: Reflections on the Reform of Female Education in Nineteenth Century Australia", *Australian Historical Studies*, Vol 23, No 92, April 1989, p 249.

¹⁶⁸ Theobald, "The PLC Mystique", *op cit.*, pp 253, 255.

¹⁶⁹ Ailsa Zainu'ddin, "The Admission of Women to the University of Melbourne, 1869-1903," in Stephen Murray Smith (ed), *Melbourne Studies in Education*, MUP, 1973, p 86.

¹⁷⁰ "Report of the Council of the Ladies College", *Proceedings of the General Assembly of the Presbyterian Church of Victoria*, November 1903.

Christian home for young ladies...and to exercise over them the same careful yet kindly and loving oversight which girls receive in their own homes.’¹⁷¹ There was a list of twenty-eight ‘Rules for Boarders’¹⁷² which set out the expected behaviour of the girls. The girls were accommodated ‘in bedrooms, not dormitories...each bedroom being furnished for two or three girls.’¹⁷³ In *The Getting of Wisdom*, a novel based on her experiences at PLC by Henry Handel Richardson, the heroine Laura Rambotham was allocated to a room on the top floor ‘with four beds..., a washstand, a chest of drawers and a wall cupboard.’¹⁷⁴ It is not known with whom Christian shared her room.

On weekends, boarders were allowed to visit friends or relatives who lived in Melbourne and once a month were allowed to stay ‘from Saturday to Monday.’¹⁷⁵ In *The Getting of Wisdom*, Laura spends such a weekend with her godmother.¹⁷⁶ While her mother remained in Melbourne, Christian may have visited her for weekends and stayed from Saturday to Monday when she was allowed. After her mother returned to Naracoorte, Christian may have visited her uncle, Reverend A Campbell Smith, who was Professor of Hebrew and Old Testament Studies at Theological Hall, Ormond College, University of Melbourne, and his wife.¹⁷⁷

The advertorials were careful to emphasise those aspects, such as religious education, which would have been of interest to parents who might be considering sending their daughters to PLC. Prayers were held morning and evening when a chapter of the Bible was read. The girls were also expected to memorise a verse of scripture every day. Bible classes were conducted every Sunday afternoon at which the boarders were examined on what they had learned.¹⁷⁸ Recreational pursuits such as tennis, cricket, hockey and rounders were encouraged. There were also regular musical evenings at which the boarders entertained staff, parents, friends and each other.¹⁷⁹ The boarders were also encouraged to undertake charitable work. There was a branch of the Dorcas Society which provided clothing for the poor. ‘Every alternative Saturday evening is devoted to Dorcas work and large quantities of new

¹⁷¹ “Our Ladies College: The Boarders”, *The Messenger*, 23 June 1905, p 435.

¹⁷² M O Reed, *The Ladies Came to Stay: A Study of the Education of Girls at the Presbyterian Ladies College, Melbourne, 1875-1960*, PLC Council, Melbourne, 1960, pp 42-43.

¹⁷³ *The Messenger*, 23 June 1905, p 435.

¹⁷⁴ Henry Handel Richardson, *The Getting of Wisdom*, Heinemann Educational Books, London and Melbourne, 1968 Edition, p 35 (henceforth cited as TGW).

¹⁷⁵ *The Messenger*, 7 July 1905, p 475.

¹⁷⁶ TGW, pp 66-67.

¹⁷⁷ “A Distinguished Career”, *The Argus*, 24 November 1903, p 5.

¹⁷⁸ *The Messenger*, 7 April 1905, p 205.

¹⁷⁹ *The Messenger*, 14 July 1905, p 495.

clothing are thus provided for the poor and needy.¹⁸⁰ It is known that Christian had fine needlework skills. At Christmas 1918, she made a pretty camisole for her friend Nettie.¹⁸¹

The daily routine was exacting. The girls were roused at six a.m., an unpleasant experience in winter, when they bathed, dressed and practised their musical instrument for an hour or so.¹⁸² Christian would have been one of those practising the piano. The PLC enrolment book notes that Christian was to learn 'violin from a lady and to keep up practice.' There is no evidence that she ever did learn the violin but the piano was to provide consolation in difficult times throughout her life. At eight a.m., there were prayers, followed by breakfast in the dining hall. At nine, the whole school, including day girls, assembled for prayers.¹⁸³ After assembly there were classes until lunch-time followed by more classes until about 3.30 p.m. Then, for the boarders, there was time for recreation and exercise such as supervised walks around the neighbourhood¹⁸⁴ or games such as tennis, cricket, hockey and rounders.¹⁸⁵ There was a break for tea, followed by homework, then supper. After supper, there were hymns, bible reading and prayers before they retired for the night at around 9.30 p.m.¹⁸⁶

There is a group photograph of Christian and some of her classmates, entitled 'The Owls' which was apparently the nickname of the Greek and Latin Club, taken sometime during 1903 or 1904 (see facing page). The girls are dressed in ordinary clothes as a school uniform was not introduced until 1911.¹⁸⁷ It shows Christian looking boldly at the camera while the two girls who were to become her friends, Nettie Higgins and Hilda Bull, look off to the side. Both Nettie and Hilda seem discomfited by having to sit next to the master for the photograph. Christian is noted as being the Secretary of the Club. All of the girls, except Christian, have their hair tied back. Christian's hair is loosely arranged which, together with her bold glance, suggests incipient rebelliousness. From a remark in a letter Christian wrote to Nettie towards the end of her life, Christian was apparently outspoken at school.

In March 1962, Nettie sent a birthday present that triggered Christian's memories of her schooldays. It was an owl - whether it was an ornament or a piece of jewellery is not clear.

¹⁸⁰ *The Messenger*, 7 July 1905, p 475.

¹⁸¹ Nettie Palmer to Vance Palmer, 28 March 1918, *Palmer papers*, NLA MS 1174/1/2091.

¹⁸² *TGW*, p55; Michael Ackland, *Henry Handel Richardson: A Life*, Cambridge University Press, 2004, p 62.

¹⁸³ *TGW*, p58.

¹⁸⁴ *Ibid.*, p 107.

¹⁸⁵ *The Messenger*, 14 July 1905, p 495.

¹⁸⁶ *TGW*, pp 46-47, Ackland, *op cit.*, p 62.

¹⁸⁷ Fitzpatrick, *op cit.*, p 122.



2nd Year

M. CAMERON. M. CAMDBELL. C. SMITH. SECY. K. PHIPPS.
 — H. ULRICH. N. HIGGINS. H. W. ALLEN. PRESIDENT H. BULL. F. LANGFORD. VICE PRESIDENT —
 M. DAVIES. ———— G. DALL.

Judging from Christian's response Nettie must have chosen it very carefully. Christian wrote delightedly to thank her.

I am writing to you on my Ides to say thank you ever so much for the little owl. How you set the clock back. I wandered around that day it arrived not knowing any minute we would be going back into class after a round under the trees when I would have been talking the usual rubbish....The vanity and conceit of the schooldays and University I shiver to remember...¹⁸⁸

Although this was written more than fifty years after the events described, we do gain a glimpse of the schoolgirl Christian who, it seems, was not afraid to express her views.

It was through Hilda Bull that Nettie and Christian met Katharine Susannah Prichard. Hilda and Katharine had met at Armadale State School, in one of Melbourne's eastern suburbs. Later, when Hilda was at PLC, she and her family moved to live next door to Katharine's family in Ormond, another south-eastern Melbourne bayside suburb.¹⁸⁹ Katharine recorded how she met Nettie and Christian in her autobiography.

Nettie Higgins and Christian Smith were Hilda's friends before they were mine. They all went to Presbyterian Ladies College. I was usually invited to join the party when they came to see Hilda and we sat on the lawn between Hilda's room and mine, comparing notes about our enthusiasms and ambitions. We were each of us working for the matriculation examinations...I don't think we ever discussed things that are supposed to interest girls - boys and dresses. We were interested mostly in ourselves, or future, and the first step towards it: those exams. We all passed...¹⁹⁰

Katharine seems to have misremembered when she sat her exams because, according to her papers, she passed her matriculation in 1902.¹⁹¹ Hilda would go on to study medicine at the University of Melbourne, graduating in 1913, the same year that she married the playwright, Louis Esson.¹⁹² Due to her parents' financial situation, Katharine did not proceed to university but worked as a governess, journalist and writer.¹⁹³

¹⁸⁸ CJS to Nettie Palmer, 15.3.62, *Palmer papers*, NLA MS 1174/1/9638.

¹⁸⁹ Katherine Susannah Prichard, *Child of the Hurricane: An Autobiography*, Angus and Robertson, London, 1964, p 63.

¹⁹⁰ *Ibid.*

¹⁹¹ *Papers of Katherine Susannah Prichard*, NLA MS 6201, Series 1, Folder 6.

¹⁹² Walker, *op cit.*, p 440.

¹⁹³ John Hay, "Katharine Susannah Prichard", *ADB*, Vol 11, p 291.

Peter Fitzpatrick, the biographer of Louis Esson and Hilda (Bull) Esson, claims that 'Christian was already a declared free-thinker when she arrived at PLC.'¹⁹⁴ Unfortunately, he does not provide any evidence for this statement but it seems unlikely at this time. She certainly had an opinion about how a schoolgirl should behave. In a somewhat stilted essay entitled 'By A Fresher', published in the school magazine, *Patchwork*, in July 1903, she described the characteristics of a 'model' schoolgirl. While conceding that 'my opinions of a model school-girl are not very decided', she nevertheless describes an ideal that is perhaps too perfect. The model school girl must be a 'good companion: a girl who is not too tired after a hard day's work to talk and laugh and dance and play for others.' She must be able to 'join in with the common amusements and fun and not be exclusive, that is to say, to stick to one friend only.' If she works hard, is conscientious and diligent and does everything that she is asked 'it is better that should not inform others of the fact or bring it under their notice or [she will be] labelled as conceited.' She should 'talk rationally and help intelligently with lessons... and do it in such a way that it is a pleasure to ask her.' However, she does not think that the 'commonplace' girl can meet the requirements of a model schoolgirl, 'however, nice [she] may be'. In conclusion she states that 'in my opinion, a bright, clever, original, all round, healthy girl constitutes a model schoolgirl.' In a footnote to this essay, the Editor (unnamed but probably a staff member) chides 'our young contributor' for her view that 'a commonplace girl cannot be a model schoolgirl.'¹⁹⁵ It is impossible to know how sincere Christian was in her opinion or whether she was merely seeking the approval of her teachers.

Like her father Christian enjoyed debating and was an active participant in the Debating Society while at PLC. She was reported in the July 1903 edition of *Patchwork* as opening for the negative in the debate 'Is luxury a vice?' held on 11 June¹⁹⁶ and when the members of the Debating Society voted for the prize-winners in the first half of the year, Christian was placed second. In the election for office bearers for the second half of 1903, Nettie Higgins was elected President of the Debating Society.¹⁹⁷ Maud Cameron, another member of the Owls and a friend of Nettie and Christian, was elected Vice President. In the October 1903 edition of *Patchwork* Christian is reported as defending men in the debate 'Which is the vainer sex?' held on 13 August. The vote indicated that Christian won the debate. In the December 1903 edition of *Patchwork*, it was reported that Christian led the negative and Nettie led the affirmative in the debate 'Are there too many cliques in our school?' held on 24 October. The

¹⁹⁴ Peter Fitzpatrick, *Pioneer Players: The Lives of Louis and Hilda Esson*, Cambridge University Press, Melbourne 1995, p 56.

¹⁹⁵ *Patchwork*, Presbyterian Ladies College, July 1903, pp 4-5.

¹⁹⁶ *Ibid.*, p 9.

¹⁹⁷ *Patchwork*, Presbyterian Ladies College, October 1903, p 10.

reported result cryptically suggests that Nettie won this debate – ‘The votes showed that there is a feeling amongst us in favour of expanding our relations with other girls.’¹⁹⁸ Debating developed skills which would be advantageous for a future lawyer.

At the end of 1903, Christian sat for the Victorian Matriculation examinations and gained passes in English, Latin, Algebra and Euclid and gained honours in Greek. However, her results were not good enough to gain an Exhibition (awarded to the top scholar in each subject). In that year, Hilda Bull was the only PLC girl to be awarded an Exhibition - in botany and physiology. Nettie and Maud Cameron both gained honours in English and history.¹⁹⁹

Meanwhile, Christian’s parents were winding up their life in Naracoorte. At the end of May, the congregation of St Andrew’s Presbyterian Church offered to increase Thomas Jollie Smith’s stipend if he would stay but he declined, saying that monetary considerations had little or nothing to do with his decision to resign. He also refused offers from other country congregations. He told them that ‘he must for private reasons seek work in the city either in Melbourne or Sydney.’²⁰⁰ In July, the ladies of St Andrew’s congregation presented Mrs Smith with a silver tea tray and China tea set ‘in appreciation of ... the energetic and hearty manner in which [she] had worked in church matters’. The report noted that Mrs Smith had ‘always taken a leading part in the various branches of church work which are entrusted to the ladies of the congregation and her assistance and advice at all times have been invaluable.’ In thanking them, Mrs Smith remarked that ‘she had only done her duty to the church’ and regretted that ‘circumstances had compelled them to shortly sever their connection with the church.’²⁰¹ Smith’s resignation took effect on 30 September and they left Naracoorte by train on 7 October. At a farewell evening two days before their departure, the congregation presented Smith with a purse containing fifty guineas.²⁰²

The purse must have been welcome as he did not have a job to go to when he left Naracoorte but this was resolved by a tragic event. Not long after they returned to Melbourne Thomas Jollie Smith was shocked by the sudden death of his older brother, Alexander Campbell Smith, on 23 November. Campbell had suffered a heart attack at Morwell, a town in Gippsland, Victoria, where he had been conducting the anniversary services of the local

¹⁹⁸ *Patchwork*, Presbyterian Ladies College, December 1903, p 13.

¹⁹⁹ *Patchwork*, Presbyterian Ladies College, April 1904, pp 4-5.

²⁰⁰ *The Narracoorte Herald*, 29 May 1903.

²⁰¹ *The Narracoorte Herald*, 31 July, 1903.

²⁰² *The Narracoorte Herald*, 6 October 1903.

Presbyterian Church. He was only forty-seven. He left a widow but no children.²⁰³ As a consequence of his brother's death, Thomas Jollie Smith was employed as lecturer in Hebrew at Ormond College during 1904.²⁰⁴

By the end of 1903, Nettie seems to have been established as Christian's best friend. The evidence for this is a letter Nettie received from Ida Rentoul, one of their classmates, after school broke up for the year which expressed displeasure at some perceived poor behaviour by Christian and Nettie. 'Look here', Ida wrote, 'I don't like you and Christian going to have tea with gentlemen. I gave Christian a word about it. It isn't at all becoming.'²⁰⁵ Ida may well have been miffed by Nettie's change of allegiance as evidence suggests that, until 1903, Ida and her sister Annie had been Nettie's best friends. Ida and Annie Rentoul were the daughters of the Reverend John Rentoul, a Professor at Ormond College and a friend of Nettie's uncle, Henry Bournes Higgins.²⁰⁶ Nettie and the Rentoul sisters evidently drifted apart after 1903 to such an extent that in 1909 Nettie could respond quite coolly to a query from Vance Palmer as to whether she knew Ida Rentoul. 'Know Ida Rentoul? Yes, I was at school with her and we were quite thick for a while. In a fortnight I am going to her very swagger wedding.'²⁰⁷ In December 1909, Ida Rentoul married Arthur Grenby Outhwaite, a barrister, and it is under the name Outhwaite that Ida and Annie appear in the *Australian Dictionary of Biography*. Ida and Annie achieved fame through illustrating and writing children's story books which feature elves and fairies in an Australian setting.²⁰⁸

In 1904, Christian was elected Secretary of the Debating Society. In her report in the April edition of *Patchwork* she described the changes that were made to the rules and procedures of the Debating Society and the reasons for them. Until then, the society appears to have been run on very haphazard lines.

There was not a careful list of members kept, and finances - well, last year there were no finances. The speeches were spontaneous, and were practically confined to half a dozen girls who had something to say and were not nervous about getting up and saying it. The majority of members, or rather attenders, never did anything except vote. And as for the vote, in nine cases out of ten it had nothing to do with any speeches that had been given, and very often a weak, and to all

²⁰³ "Sudden Death of the Rev Professor Smith", *The Argus*, 24 November 1903, p 5.

²⁰⁴ Ian Breward, "Thomas Jollie Smith", *ADB*, Vol 11, p 663.

²⁰⁵ Ida Rentoul to Nettie Higgins, 18 December 1903, *Palmer papers*, NLA MS 1174/1/61.

²⁰⁶ Stuart Macintyre, "John Laurence Rentoul", *ADB*, Vol 11, p363.

²⁰⁷ Nettie Higgins to Vance Palmer, November 1909, *Palmer papers*, NLA MS 1174/1/246.

²⁰⁸ Diane Langmore, "Ida Sherbourne Outhwaite", *ADB*, Vol 11, p 109

appearances losing, side had an amazing victory because it happened to be popular.²⁰⁹

Judging by her retrospective comments about talking the usual rubbish, noted above, Christian herself was probably one of those who had something to say and said it. However, her reference to members 'who never did anything but vote' recalls a 1895 speech by her father to the members of the Naracoorte Literary Society in which he urged those who only came to listen to take a more active part in the society. The new rules and procedures were implemented in 1904. In her final report for 1904, Christian noted that the new 'method of organisation is satisfactory and effectual.'²¹⁰

School life ends

At the end of 1904, Christian resat Matriculation Greek and Latin and gained third class honours in both. It was also the end of her schooldays and residence as a boarder. One of her last essays published in *Patchwork*, entitled 'The Boarders' Night', describes the boarders' end of year party. 'The Boarders breakup party was, as usual, a very great success though on this occasion there was a feeling underlying all the fun that it really was the last time. Perhaps this made the old jokes even more pathetic than usual and the speeches shorter.'²¹¹

In January 1905 Christian was holidaying at Point Lonsdale on the Bellarine Peninsula south-west of the City of Melbourne.²¹² Nettie was holidaying at Dromana, a popular seaside village on the Mornington Peninsula on the opposite shore of Port Phillip Bay to Point Lonsdale. Nettie was staying with her uncle, Henry Bournes Higgins, who had a country home there. While she was there Nettie visited Sorrento, another popular seaside village on the Mornington Peninsula, and had met Christian as well as Florrie Langford and Margaret Davies (both of whom appear in the PLC photograph of 'The Owls'). 'There were ever so many PLC girls around the pier,' Nettie wrote to her mother, 'but no more Owls.'²¹³ It is probable that Christian had crossed Port Phillip Bay on one of the pleasure steamers that operated during the summer months.

²⁰⁹ *Patchwork*, Presbyterian Ladies College, April 1904, p 12.

²¹⁰ *Patchwork*, Presbyterian Ladies College, December 1904, p 14.

²¹¹ *Patchwork*, Presbyterian Ladies College, April 1905, pp 2, 14-15.

²¹² Nettie Higgins to Mother, 10 January 1905, *H B Higgins papers*, NLA MS 1057/2529(a).

²¹³ Nettie Higgins to Mother, 18 January 1905, *HB Higgins papers*, NLA MS 1057/2531.

After the holidays Nettie enrolled at the University of Melbourne. Christian, however, did not enrol at University in 1905. Having passed in the November 1903 matriculation examination in the five subjects required for entry into the course leading to a Bachelor of Arts - English, Latin, Greek (in which she gained honours) Algebra and Euclid²¹⁴ - she was clearly qualified to enrol directly into the Arts course. That she could have done so in 1905 is indicated by her student record card which shows that she signed the matriculation roll in March 1905. The question is why did she not enrol in 1905.

Since her father was a supporter of education for women²¹⁵ it seems unlikely that he would have opposed outright any plans Christian might have had to further her education. The reasons that her friend, Katharine Susannah Prichard, gave in her memoirs for not being able to go to university were commonly experienced by girls. Her mother was ill and she was required to stay at home and look after her. Another obstacle was that her parents could not afford to pay her university fees after paying her brothers' school fees.²¹⁶ While Christian had no brothers, it may have been that her parents' circumstances in 1905 precluded her enrolment as her father's future employment was uncertain until well into the year.

At the beginning of 1905, Thomas Jollie Smith had not received any call to take charge of a congregation. In March 1905, he was appointed lecturer in Logic and Philosophy at Trinity College, University of Melbourne.²¹⁷ It was not until late April that the congregation of Ewing Memorial Church in East Malvern, then on the rural-urban fringe, unanimously decided to offer him a call.²¹⁸ He accepted, possibly with relief. Nettie Higgins reported the news of the call to her mother: 'By the way, Mr Smith is called to the East Malvern Church. I think he is very glad on the whole as it does mean settling down and getting out his library again and having more home life.'²¹⁹ Christian's parents may have felt that, until they could provide a settled home, it was not practical for her to commence university study. It may also have been that, with her father newly appointed to the incumbency of the Ewing Memorial Church, Christian was expected to be the dutiful daughter and assist her mother with the work of establishing the family in their new home and to assist her father with the work of his new parish. Initially, the family occupied a house in The Avenue, East Malvern, but in 1906 they

²¹⁴ *Patchwork*, Presbyterian Ladies College, April 1904.

²¹⁵ Ian Breward, "Thomas Jollie Smith", *ADB*, Vol 11, p 663.

²¹⁶ Prichard, *op cit.*, p 63.

²¹⁷ *The Messenger*, 24 March 1905.

²¹⁸ *The Messenger*, 28 April 1905.

²¹⁹ Nettie Higgins to Mother, 21 April 1905, *HB Higgins papers*, NLA MS 1051/2532.

moved to Finch Street where they remained until 1921.²²⁰ Two moves within such a short period, as well as the work of a new parish, would have demanded a great deal from her mother.

The wife of a Minister was expected to play an active, though unpaid, role in the work of her husband's parish. As she had in Naracoorte, Christian's mother took her duties seriously for which she is commended in the centenary history of the Church.

Mrs Jollie Smith quickly assumed all of these roles [leadership of women's and girls organisations, parish visiting, acting as parish hostess and providing for the domestic needs of her family] within the Ewing Memorial Parish. Within a short time she had been installed as president of the existing women's organisations and was instrumental in establishing new ones. It is possibly significant that a new interest expressed in all of these groups was for the plight of women and girls in distress, especially those coming from underprivileged backgrounds. Mrs Smith also shared her husband's interest in the Ewing Tennis Club and in the various attempts to establish Gymnasium activities for young women in the parish.²²¹

There were clearly many ways in which Christian could assist her mother in her parish work but the centenary history of the church makes no mention of Christian.

As well as teaching at Trinity College, Christian's father seems to have been a very active participant in Church affairs. In 1905, the Proceedings of the General Assembly of the Presbyterian Church of Victoria record his name on a number of church committees either as a member or a convenor. He was convenor of the Home Mission: Work in Cities Committee and the standing Committee on Sabbath Schools. He was a member of the committee established to set up social clubs for working men and of the Standing Committees responsible for Theological Hall and neglected and destitute children.²²² This suggests that he might have been often absent from home, and so made Christian's presence to support her mother even more essential.

In April 1905, Christian stayed overnight with Nettie at 'Ardmore' (Nettie's home) while Nettie's parents were away. Nettie described their activities to her mother.

²²⁰ Ian Jenkin, *In Search of his Kingdom – the Ongoing Mission of Ewing Memorial Church East Malvern: A Centenary History*, The Church, p 23.

²²¹ *Ibid.*, pp 23-24.

²²² *Ibid.*

Christian came home with me last night and didn't go away until late this afternoon. She goes to Point Lonsdale tomorrow. This morning she and I went to St John's [an Anglican Church] for some reason unknown...I was knocking about with her all the afternoon then I went with her to Hawksburn station.²²³

While she was staying with Nettie, Christian experimented with Nettie's hairstyle but the result did not please Nettie's aunt, Ina Higgins. 'When Christian was here the other day she made me do my hair in a way that I couldn't succeed in describing. Aunt Ina abused me for it yesterday.'²²⁴

There is evidence that Christian continued her interest in debating. In the June 1905 edition of *Patchwork* there is an article by Christian, entitled 'Ormond Notes' describing her attendance at debates at the Ormond College Debating Society and the Princess Ida Club, a club exclusively for women students.²²⁵ There is also evidence that Christian attended the lectures in English Literature given by Walter Murdoch who, in 1912, became the foundation Professor of English at the University of Western Australia.²²⁶ Murdoch had been appointed as an assistant lecturer in English at the University of Melbourne in December 1903.²²⁷ In 1905, he was appointed lecturer at a salary of £300 and he continued in the position until 1911. In 1905, Nettie was enrolled in his subject.²²⁸ In a letter to Nettie, written in March 1962, Christian reported having received a short note from Professor Murdoch in which 'he said that he has no pride in remembering what he said in lectures way back. I had said that I remembered them with delight and he said whatever for or some such.'²²⁹ The teaching of English literature at the time generally comprised surveys over long periods of time but Murdoch was able to make the course interesting for his students. This was mainly because he went beyond the syllabus and introduced students to contemporary and Australian writing.²³⁰ It may have also been significant that, like her father, Murdoch had been born in Scotland and came to Australia with his family as a boy. Murdoch's father was also a minister of the Free Church of Scotland.²³¹

²²³ Nettie Higgins to Mother, 21 April 1905, *HB Higgins Papers*, NLA MS 1051/2532.

²²⁴ Nettie Higgins to Mother, Easter Monday 1905, *HB Higgins papers*, NLA MS 1051/2538.

²²⁵ *Patchwork*, Presbyterian Ladies College, June 1905.

²²⁶ Graeme Davison, John Hirst, and Stuart Macintyre (eds), *The Oxford Companion to Australian History*, First Edition, Oxford University Press, Melbourne, 1998, p 445.

²²⁷ John La Nauze, *Walter Murdoch: A Biographical Memoir*, Melbourne University Press, 1977, p28.

²²⁸ Walter Murdoch to Nettie Palmer, 22.11.05, *Palmer papers*, NLA MS 1174/1/72.

²²⁹ CJS to Nettie Palmer, 15.3.62, *Palmer papers*, NLA MS 1174/1/9638.

²³⁰ La Nauze, *op cit.*, pp 30-31.

²³¹ Fred Alexander, "Sir Walter Logie Forbes Murdoch", *ADB*, Vol 10, p 630.

On 15 March 1906, Christian Jollie Smith turned twenty-one but there is little evidence of her activities during 1906. She formally enrolled at the University in two single subjects, Greek Part 2 and Latin Part 2.²³² Enrolment in only two subjects suggests that perhaps she had not yet decided what course to follow. Christian's enrolment in the second year of both Greek and Latin is also unusual, particularly as she enrolled in Greek Part 1 in the following year. The decision to enrol in these subjects at the second year level may have been intended as a test designed to determine whether she had the capacity, the application and the stamina to study at university level. Whatever the reason, she passed both subjects and enrolled in law in 1907.

²³² Student record card, University of Melbourne, Enrolment No 060145, Christian Jollie Brynhild Ochiltree Smith.

Chapter 2: Learning the Law – 1907-1912

Why law?

Law was not an obvious choice for a woman. Women had been allowed to study towards a degree in Arts at the University of Melbourne since 1881 and the first woman to graduate, Bella Guerin, received her degree in 1883, two years before Christian was born. However, while accepted in Arts, women were initially excluded from courses leading to the professions. Women were admitted to the first year of medicine in 1887 and the first woman doctor graduated in 1891.¹ The lawyers held out until 1897. According to Ruth Campbell all the usual suspects were rolled out in an attempt to deny women access to law. Women were too emotional and a male counsel would have less chance of winning his case against a woman with ‘smiles, tears and blushes at her command.’ Women’s ‘reasoning faculties were also missing or imperfectly developed’ and they lacked the ability to evaluate ‘the relative importance of events.’² Nor could they keep a secret.³ But the women and their supporters persevered. Miss Grata Flos Matilda Greig (known as Flos), who graduated in 1903, became the first Victorian female law graduate.⁴

Christian apparently told the journalist, Edith Willard, that her decision to study law rested on the toss of a coin as other options were considered.

I had no special “call” to study law but rather looked with longing eyes on engineering as a career. That being too unbroken a field, as yet, for a woman, there was the law and medicine left; and on the actual spin of the coin I chose the former.⁵

This explanation seems too flippant for it appears that it was her father who influenced her decision. Some thirty years later, in a letter to her friend Nettie, she was to wonder why her father chose law rather than music.⁶ In another letter to Nettie written a further eighteen years later, Christian recalled that ‘the parent advocated law to save me from suicide from

¹ Ailsa Zainu'ddin, “The admission of women to the University of Melbourne, 1869-1903,” in Stephen Murray-Smith (ed) *Melbourne Studies in Education* 1973, MUP, pp 81, 102.

² Ruth Campbell, *A History of the Melbourne Law School 1857-1973*, (Faculty of Law, University of Melbourne, 1977), pp 25-26.

³ Farley Kelly, *Degrees of Liberation: A Short History of Women at the University of Melbourne*, Melbourne, 1985, p 21.

⁴ Jill Ewing, “Laying the Foundation Stone for Legal Women”, *Law Institute Journal*, Vol 66, 1992, p 160

⁵ Edith Willard, “Australia’s Lady Lawyers: the Bar as a Profession for Women” *Everylady’s Journal*, 6 January 1913, p 6.

⁶ CJS to Nettie Palmer 12.3.1944, *Palmer papers*, NLA MS 1174/1/6519.

boredom.’⁷ Medicine was probably out of the question. Firstly, Christian had not studied any science subjects. The 1903 Royal Commission on the University of Melbourne heard that the high failure rate in first year medicine could be attributed to inadequate preparation in science.⁸ Secondly, the course fees were more expensive – £22 per year for five years which did not include the clinical fees charged for training in the hospitals, compared with £12/12/- for the first two years of the law degree and £25/4/- for the third and fourth years.⁹ Advice on the suitability of engineering for a woman may have been sought from her uncle, Robert Neil Smith, who was briefly Professor of Mining Engineering at the University of Tasmania.

Christian turned 22 in March 1907. To contemporary eyes, at that age she would have been regarded as a ‘mature age student’. However, as Ailsa Zainu’din has shown, it was not unusual for women university students to be older than their male counterparts. All of the first four women who enrolled at the University of Melbourne in 1881 were in their twenties.¹⁰ In 1893, the Principal of the Presbyterian Ladies College, the Reverend A Harper, noted that the girls [who went on to University] were one or two years older than the boys.’¹¹ Of Christian’s PLC friends, Nettie Higgins was nineteen and a half when she commenced her Arts degree in 1905, Hilda Bull was 19 when she enrolled in medicine in 1906, and Maud Cameron was 20 when she enrolled in an Arts degree in 1907.

Before 1897, potential law students were required to complete a full Arts degree before enrolling in law. However, this requirement was discontinued in 1897.¹² At the time Christian enrolled, the law course was of four years’ duration. In the first two years students enrolled in Arts subjects and then proceeded to study law subjects in the third and fourth years. The rationale for requiring students to undertake two years of Arts subjects was based on ‘a very strong feeling that those who were going to the practice of the bar should be men of essentially liberal education.’¹³ Before progressing to the third year students were required to have passed in two specific subjects: Constitutional History and Law Part 1 and Latin.¹⁴

⁷ CJS to Nettie Palmer, 29/31 July 1962, *Palmer papers*, NLA MS 1174/1/9707.

⁸ Royal Commission on the University of Melbourne, “Minutes of Evidence on Administration, Teaching Work and Governance of the University of Melbourne”, *Victorian Parliamentary Papers (VPP)*, Second Session 1903, Minutes of Evidence, paragraphs 2823A-2828. Hereafter cited as “Minutes of Evidence”.

⁹ *Calendars for 1907-1910*, University of Melbourne.

¹⁰ Zainu’din, *op cit.*, p 83.

¹¹ Cited in Zainu’din, *op cit.*, p 85.

¹² Arthur Dean, *A Multitude of Counsellors: A History of the Bar in Victoria*, Cheshire, 1968, p 279.

¹³ Minutes of Evidence, *op cit.*, paragraph 9.

¹⁴ *Calendar for 1907*, University of Melbourne Archives.

An honours student

In 1907, Christian enrolled in Greek Part 1 (taught by Professor Tucker), Deductive Logic (taught by Professor Laurie), Ancient History and History of the British Empire Part 1 (both taught by Professor Elkington). Professor Thomas George Tucker, who taught both Latin and Greek, had been appointed in 1885 at the age of twenty-six. Highly regarded as a teacher, he was also widely known as a public speaker and literary critic.¹⁵ Professor Henry Laurie had been appointed to the lectureship in Logic in 1881 and to the lectureship in mental and moral philosophy in 1882. He was appointed to the chair of mental and moral philosophy in 1886. Professor Laurie was also highly regarded as a teacher and had a reputation for training his students to think.¹⁶

Not so highly regarded was Professor Elkington, who taught History of the British Empire Parts 1 and 2, Ancient History, Constitutional History and Political Economy,¹⁷ five of the eight subjects in which Christian enrolled in 1907 and 1908. Appointed Professor of History and Political Economy at the University in 1879, after three years as a lecturer, Professor Elkington continued in that position until his retirement in 1912.¹⁸ Unusually amongst his colleagues, who were mostly graduates of universities in England or Scotland, particularly Oxford and Cambridge, Elkington was a graduate of the University of Melbourne. He had proposed himself for the chair in History and Political Economy after its previous incumbent, Professor William Edward Hearn, became Dean of Law.¹⁹

Elkington had a poor reputation as a teacher. One of his English-educated colleagues thought he was a 'fraud' whose history teaching relied heavily on standard textbooks.²⁰ He undertook little research and rarely revised his lectures²¹ which were apparently just summaries of the prescribed texts.²² His economics teaching was also criticised particularly by the English Fabian, Beatrice Webb, after she visited the University in 1898.²³ As noted by Geoffrey Blainey in his centenary history of the university, Elkington was so renowned for delivering

¹⁵ RJW Selleck, *The Shop: The University of Melbourne, 1850-1939*, MUP, 2003, pp 216, 361, 399.

¹⁶ *Ibid.*, pp 193, 227, 502.

¹⁷ Minutes of Evidence, *op cit.*, paragraph 1005.

¹⁸ Norman Harper, "John Simeon Elkington", *ADB*, Vol 8, p 425.

¹⁹ Selleck, *op cit.*, p175.

²⁰ Selleck, *op cit.*, p 306.

²¹ *Ibid.*, p 498.

²² Stuart Macintyre, "John Simeon Elkington" in Fay Anderson and Stuart Macintyre (eds), *The Life of the Past: The Discipline of History at the University of Melbourne*, Department of History, University of Melbourne, 2006, p 12.

²³ Peter Groenwegen, and Bruce McFarlane, *A History of Australian Economic Thought*, Routledge, London and New York, 1990, p 45.

dreary lectures that changed little over the years that there was a thriving trade in his lecture notes.²⁴

Notwithstanding Elkington's reputation for poor teaching, Christian seems to have coped well with her studies in her first year. At the examinations at the end of 1907, she was awarded second class honours in History of the British Empire Part 1 and Ancient History.²⁵ In the history class list, she was ranked third behind her PLC friend, Maud Cameron, who was ranked second.²⁶ At that time, the length of the honours course was three years, the same as for pass students, but honours students were given extra reading and sat a separate examination.²⁷ Christian was also awarded second class honours in Deductive Logic and was ranked fourth in the class.²⁸ In her fourth subject, Greek Part 1, she achieved only a pass result.²⁹ Given her later political development, a careful examination of her history courses is appropriate.

History of the British Empire was a survey course focussing on constitutional developments. Part 1 'began at the beginning' and ended with the reign of Charles II. The subject aimed to provide students with a knowledge of the 'gradual development of the British Empire as we have it today.'³⁰ There was one principal textbook for the course – J R Green, *History of the English People*. An additional textbook was prescribed for honours students – R H Hodgkin *The Political History of England to 1066*.³¹ Judging by the principal text, the British History that Christian learned was decidedly Whiggish despite the fact that Whig historiography had been under challenge since 1890.³² Whig history has been defined as 'the story of the triumph of the constitution and representative institutions.'³³ Whig historians contended that 'England had always been a free nation [which] had had to defend her liberties tenaciously against a succession of authoritarian kings and unscrupulous favourites.'³⁴ The main focus of Whig historians was the seventeenth-century struggle between the monarchy and Parliament for supremacy culminating with the Glorious Revolution of 1688-89 in which the Catholic

²⁴ Geoffrey Blainey, *A Centenary History of the University of Melbourne*, (Melbourne University Press, 1957), p100.

²⁵ *Student Record Card*, University of Melbourne Archives.

²⁶ *Calendar for 1910*, University of Melbourne Archives. No first class honours were awarded in history in 1907.

²⁷ Selleck, *op cit.*, p 501.

²⁸ *Calendar for 1910*, University of Melbourne Archives.

²⁹ *Student Record Card*, University of Melbourne Archives.

³⁰ Minutes of Evidence, *op cit.*, paragraph 1022.

³¹ *Calendar for 1907*, University of Melbourne Archives.

³² PBM Blaas, *Continuity and Anachronism: Parliamentary and Constitutional Development in Whig Historiography and the Anti-Whig Reaction between 1890 and 1930*, Martinus Nijhoff, The Hague, 1978, p xii.

³³ JW Burrow, *A Liberal Descent: Victorian Historians and the English Past*, Cambridge University Press, 1981, p 3.

³⁴ John Kenyon, *The History Men*, Revised Edition, Weidenfield and Nicholson, London, 1993, p 42.

King James II was replaced by his Protestant daughter, Mary, and her husband William of Orange and the subsequent passage by Parliament of the Bill of Rights.

John Green was one of the earliest of nineteenth-century Whig historians. His *History of the English People*, published between 1877 and 1880, was an extended version of his immensely popular *Short History of the English People*. Green was ‘critical of monarchy, aristocracy and the traditional authority of the Church of England’ and ‘he lashed out at injustices in English society past and present.’³⁵ The radical nature of his work alarmed conservatives and his book was described by one critic ‘as leftist, revolutionary and highly dangerous reading for younger people.’³⁶ His biographer notes that some early English Labour Members of Parliament acknowledged Green’s influence.³⁷ Professor Elkington apparently believed that the Glorious Revolution was a necessary and beneficial event and this view was reflected in his examination questions.³⁸

The focus of the Ancient History course was also on the ‘rise and development of political institutions’ as well as the history of Greece and Rome.³⁹ There was a much more extensive list of textbooks for this subject. Not surprisingly, Professor Hearn’s book, *The Aryan Household*, was included. Other texts were William Ramsay, *Elementary Manual of Roman Antiquities* (1859); specific chapters of George Grote, *The History of Greece*, Parts 1 and 2 (1846); Theodor Mommsen, *The History of Rome* (1854-1856), Books 3-5; and Charles Merivale, *History of the Romans* (1850-1864). Additional reading for honours students were Samuel Dill, *Roman Society from Nero to Marcus Aurelius* (1904) and Edward Gibbon, *The Decline and Fall of the Roman Empire*, up to the death of Charlemagne.⁴⁰

The choice of textbooks for Ancient History suggests that students could have evaluated the strengths and weaknesses of monarchical and democratic forms of government. William Ramsay was a classical scholar whose book on Roman antiquities, though widely used in the nineteenth century, was not part of the Whig canon.⁴¹ George Grote’s *History of Greece* was written in response to an earlier history by William Mitford which had defended monarchy and oligarchy and scorned Greek democracy. Grote’s book focused on the growth of

³⁵ Brundage, “The People’s Historian”, *op cit.*, pp 5, 111, 118.

³⁶ Blaas, *op cit.*, p 192.

³⁷ Brundage, “John Richard Green”, *op cit.*, p 516.

³⁸ Richard Selleck, “Empires and Empiricism: The teaching of History at the University of Melbourne 1855-1936”, in Anderson and Macintyre (eds), *op cit.*, p 16.

³⁹ Minutes of Evidence, *op cit.*, paragraph 1011.

⁴⁰ *Calendar for 1907*, University of Melbourne Archives.

⁴¹ WW Wroth and Rev Richard Small, “William Ramsay”, *Oxford DNB*, Vol 45, p 953.

Athenian democracy which he regarded as the ideal form of government. It was widely admired, becoming the standard work for some fifty years.⁴² Charles Merivale was a clergyman whose views of the nineteenth century parliamentary reforms were the opposite of Grote's.⁴³ Merivale admired strong governments and was therefore an advocate for the powerful imperialist government of Rome.⁴⁴ While his book was popular it appeared at a time when there was no other study of the period.⁴⁵ It was superseded by the work of Theodor Mommsen.

Mommsen was awarded the Nobel Prize for literature in 1902 largely on the basis of his *History of Rome* (1854-1856).⁴⁶ Mommsen despised democracy and admired superior aristocratic ability.⁴⁷ He idealised Caesar, supporting him against his opponents.⁴⁸ His book was popular and was hailed as the best history of Rome then available.⁴⁹ Samuel Dill was another classical scholar whose book on Roman society examined the effect of spiritual and governmental crises on the life of society.⁵⁰ The first volume of Gibbon's *Decline and Fall of the Roman Empire* was criticised by the clergy for its treatment of non-Christian views of Christianity. Though he admired Rome's cultural and artistic achievements, Gibbon did not admire the imperial form of government and was particularly unsympathetic to Roman efforts to govern remote countries.⁵¹ Elkington's lectures in Ancient History emphasised the legal and constitutional aspects of Greek and Roman History. His examination questions were generally designed to elicit factual answers⁵² but the discerning student could have gained a broader view of the development, and comparative advantage, of democratic institutions.

In the honours class lists, Christian was noted as being associated with Trinity College. Opened in 1872, Trinity was the first of the colleges linked to the University of Melbourne to be established.⁵³ Ormond College opened in 1881 and Queen's College in 1888. The colleges not only provided student accommodation but also additional lectures and tutorials which

⁴² Joseph Hamburger, "George Grote", *Oxford DNB*, Vol 24, pp 106-107.

⁴³ JM Rigg and Rev John D Pickles, "Charles Merivale", *Oxford DNB*, Vol 37, p 890.

⁴⁴ James Westfall Thompson and Bernard J Holm, *A History of Historical Writing*, Volume 2, Macmillan, New York, 1942, p 495; GP Gooch, *History and Historians in the Nineteenth Century*, Second Edition, Longman, Green and Co, London, 1952, p 300.

⁴⁵ Gooch, *op cit.*

⁴⁶ MI Finley, *Ancient History: Evidence and Models*, Chatto and Windus, London 1985, p 4.

⁴⁷ Thompson and Holm, *op cit.*, p 506.

⁴⁸ Gooch, *op cit.*, p 461.

⁴⁹ Finley, *op cit.*, p 504.

⁵⁰ R W Livingstone and Rev MC Curthoys, "Sir Samuel Dill", *Oxford DNB*, Vol 16, p 193.

⁵¹ David Womersley, "Edward Gibbon", *Oxford DNB*, Vol 22, pp 15-16.

⁵² Ronald T Ridley, "An original Subject: 150 Years of Ancient History", in Anderson and Macintyre, (eds), *op cit.*, p 158.

⁵³ Selleck, *op cit.*, p 131.

gave college students an advantage over non-resident students who were initially excluded from attending. In a competitive move, the warden of Trinity successfully persuaded the University to have the name of the college published beside the name of the successful students in the honours class lists.⁵⁴ Although there were close links between PLC and Ormond College and Trinity was an Anglican foundation, her father was employed by Trinity College to teach Logic and Philosophy⁵⁵ which would explain why Christian attended lectures and tutorials there rather than at the Presbyterian Ormond with her friends Nettie Higgins, Hilda Bull and Maud Cameron.⁵⁶

Students at the University were also poorly served by its library facilities which were neglected by successive administrations. In 1903, the Royal Commission on the University of Melbourne heard that the library had had no funding for ten years and students had complained that books referred to were not available in the library.⁵⁷ In 1910, the University Council decided to build a properly equipped library yet it remained at the bottom of the list of priorities for decades.⁵⁸ Some students had access to library facilities at the colleges but the Public Lending Library in Swanston Street (now the State Library of Victoria) was their main alternative and even it often did not have the required books.⁵⁹ Christian was to make a corner of the Public Lending Library her own during her student days and it was there that Nettie's future husband, Vance Palmer, met her in 1910.

A friendship 'deep as life'?

Little is known of Christian's social life during 1907. However, examples of the kinds of social activities in which Nettie and Christian were involved can be gleaned from Nettie's correspondence with her mother. In May 1907, Christian stayed with Nettie for a week while Nettie's parents were away. One night they decided to accompany a third friend to a concert but it had been postponed so they all went to a performance at another venue instead. Another night they went with another friend to a meeting of the Literature Society where Walter Murdoch and Nettie's uncle, Henry Bournes Higgins, gave addresses.⁶⁰ Probably

⁵⁴ *Ibid.*, p 240.

⁵⁵ This is noted in the University Calendars from 1906 to 1911.

⁵⁶ As noted in the class lists.

⁵⁷ Minutes of Evidence, *op cit.*, paragraphs 30-31.

⁵⁸ Selleck, *op cit.*, pp 112, 514.

⁵⁹ Minutes of Evidence, *op cit.*, paragraph 31.

⁶⁰ Nettie Higgins to Mother, 26 May 1907, *HB Higgins papers*, NLA MS 1057, Item 2551.

Christian's other friends from PLC, Hilda Bull and Maud Cameron, who were also attending the University, were part of her circle but Nettie seems to have been Christian's closest friend.

In her study of the early life of Nettie [Higgins] Palmer, Deborah Jordan hints that there may have been a lesbian relationship between Christian and Nettie which peaked in 1907 but her evidence is not compelling.⁶¹ Jordan quotes the last two lines of following poem from Nettie's Commonplace Book, where Nettie recorded her thoughts and a few poems, to support her proposition.

Friends – A villanelle

We did not speak the word
We talked and idled there
But something deep was stirred

You're like a dainty bird
So quick to skim the air
You would not speak the word

But in my heart I heard
And, softly, I declare
That something deep was stirred

We each love many a friend
Maybe, but love's to spare
For... Do not speak the word!

Our talk is past and blurred
So slight it was, so bare
Yet something deep was stirred

Kind silence ministered
And sealed our compact rare
We did not speak the word,
Yet something deep was stirred.⁶²

A villanelle is a poetic structure of nineteen lines in two rhymes with some lines repeated.⁶³ Nettie was here clearly experimenting with the form. The key characteristics of a villanelle are present - nineteen lines, two rhymes, some lines repeated. While technically competent, the poem seems rather laboured and mechanical. More importantly, rather than the last two

⁶¹ Deborah Jordan, *Nettie Palmer: Search for an Aesthetic*, History Department, University of Melbourne, 1999, p 49.

⁶² Nettie Higgins, *Commonplace Book*, NLA MS 6531, p 9.

⁶³ *Concise Oxford Dictionary*, Seventh Edition, Clarendon Press.

lines, the significant line might well be ‘our talk is past and blurred’ suggesting that Nettie was trying to put into words some past feelings that she herself recognised were insubstantial.

The poem is dated 20.III.1907, which places it right at the beginning of the year in which Christian commenced her law degree. This is perhaps more significant. After two years in which Christian seems to have ‘shadowed’ Nettie at the university, Christian now had her own lectures and studies to occupy her time. Nettie was more advanced and there would have been no overlap in subject matter or lectures. In addition, they attended different colleges for extra lectures and tutorials. This seems to be the situation reflected in another passage from Nettie’s *Commonplace Book* from which Jordan quotes. Written a year later than the poem, on 6 March 1908, the passage describes two kinds of friendship. The first kind of friendship described by Nettie is based on common interests.

One kind is that which arises from instinctive sympathies - some friendships I enjoy from my natural kinship with such different people as Katie Lush, Theo Sproule, Bernard O’Dowd, Miss Hyndman.⁶⁴

Katie Lush and Theo Sproule were both former students of Presbyterian Ladies College who went on to the University of Melbourne. They were also friends of Christian. Bernard O’Dowd was at that time assistant librarian at the Supreme Court Library in Melbourne. He was also a poet of some standing, a member of the Victorian Socialist Party, and later a member of Frederick Sinclair’s Free Religious Fellowship.⁶⁵ He corresponded with Nettie about literature and socialism. The identity of Miss Hyndman has not been ascertained, but the formal reference suggests she was an older woman, perhaps a former teacher.

The second kind of friendship was more rare. Nettie noted that ‘it has come to me twice and gone.’ Nettie thought that this second kind of friendship was equal to the first kind but was based on something more profound. Again, it is necessary to quote the passage extensively in order to understand how Nettie differentiated this kind of friendship from the first kind.

It was a friendship that seemed suddenly founded, as deep as life...
All our previous ignorance of each other and more than that, all
previous lack of sympathy in external detail counted for nothing. The
great matter was that we were two souls, seeking God, and willing to

⁶⁴ Nettie Higgins, *Commonplace Book*, NLA MS 6531, p 33.

⁶⁵ D R Walker, “Frederick Sinclair”, *ADB*, Vol 11, pp 62-63; Race Mathews, *Australia’s First Fabians: Middle Class Radicals, Labour Activists and the Early Labour Movement*, Cambridge University Press, 1993, pp153-158.

follow our love for each other's souls as far as we lawfully could in the hope that thus together we might make approach to the knowledge of the love of God. With one friend that Altar Fire died out and we separated in the physical actual world and still more vitally in the spiritual life. The other friend has left me in the spirit while intent on maintaining relations in actual life. And I, what do I do? I think out a more or less breezy letter such as I would write to one of my first kind of friends and send it to her. That seems to be the kind of friendship she wished from me but I can only give it the appearance and admit it. I really do not know her as she is now - she is more of an enigma to me than the merest acquaintance. But with her whom for three years I knew, heart to heart, with her I have communion often in thoughts of hope and in struggles towards understanding.⁶⁶

Which one is Christian if it is to Christian that Nettie is referring? Jordan states that only one of the two friends described in this passage was not named, but neither is named. Jordan attempts to link the passage to Christian through Christian's comment about 'it being a pity if Nettie took herself too seriously.' However, Nettie recorded this comment six months earlier than the above quoted passage. By quoting the full passage, it is possible to see that it was made in a different context.

Today [ie 18 July 1907] Christian said that it would be a pity for me to be "taking myself too seriously" as she once heard it said of me. I said little then but I myself would say
(1) At the time of which she spoke, I was not even hoping to be a Christian: there was despair and lethargy in every movement of my soul. Probably the attempt at "seriousness" was the least harmful part of me.
(2) I have been quickened into a love for Christ - an unspeakable miracle.⁶⁷

The fact that Christian 'once heard it said' and the reference to 'the time at which she spoke' suggests that it refers to a past event, not something that occurred in 1907 or 1908. The reference to 'all our previous ignorance' in the previous passage suggests that Nettie might be referring back to 1903 when she first met Christian. However, one should be careful not to read too much into Nettie's self-analyses.

It is possible that Christian, and perhaps also Nettie, experienced a delayed psychological development. In her study of female psychology, Nancy Chodorow argues that the principal task of the pre-pubertal girl is psychological separation from her mother. In achieving this separation many pre-pubertal girls 'find a "best friend" whom she loves, with whom she is

⁶⁶ Nettie Higgins, *Commonplace Book*, p 33.

⁶⁷ *Ibid.*, p 17.

identified, and with whom she shares everything'. Before she enrolled at PLC in 1902, Christian may have had little opportunity to develop female friendships of her own. At PLC she was therefore ready for shared intellectual interests, such as debating and 'the Owls'. PLC also provided her with the opportunity to compare her family experiences with those of other girls and she was perhaps eager to share her experiences with Nettie with whom she formed a close attachment. Following puberty, Chodorow argues, a girl becomes more pre-occupied with her relationships with males and that 'this period is characterised by bisexual wavering and indecisiveness about the relative importance of females (mother/girl friends) and males (father/boys).'⁶⁸ Nettie's writings appear to reflect this dilemma.

Friendships between young men and women were still relatively restricted in the early twentieth century⁶⁹ and, in the university environment where the few women could experience male disapproval, the support of female friends may have helped them survive.⁷⁰ In this context, it is understandable that Christian maintained a close friendship with Nettie as a source of sympathy and support. While Nettie undertook an Arts degree, which had been open to women since 1881, Christian was more of a pioneer in undertaking a law degree. She said that she was the only female in the class in the third year of the degree, which was the first year of purely law subjects, and was one of two in her final year.⁷¹

The need for sympathetic support and understanding is taken up by Suzy Baldwin in her study of female friendships in the twentieth century. Baldwin states that she 'had several best friends who have shared, illuminated and helped me survive various stages of my life.'⁷² These friendships offered 'intimate, uninhibited conversation [in which] we shared experiences and deep affection, offered each other solace and support and made each other laugh.' In addition, intimate friendships can provide intellectual stimulation and spark creativity. Baldwin argues that such friendships are essential for women, helping them survive the vicissitudes of life, providing acceptance, comfort or honest counsel as the situation requires.

⁶⁸ Nancy Chodorow, *The Reproduction of Mothering: Psychoanalysis and the Sociology of Gender*, University of California Press, Berkeley, 1978, pp 136-138.

⁶⁹ Carol Smith-Rosenberg, "The Female World of Love and Ritual: Relations between Women in Nineteenth-Century America", *Signs: Journal of Women in Culture and Society*, Vol 1, No1, 1975, pp 1, 8, 14.

⁷⁰ Martha Vicinus, "'One life to stand beside me': emotional conflicts in first-generation college women in England", *Feminist Studies*, Vol 8, No 3 (Fall 1982), p 603.

⁷¹ Willard, *op. cit.*

⁷² Suzy Baldwin, *Best of Friends: Australian Women Talk about Friendship*, Penguin Books Australia, 2001, p 4.

The continuing close friendship between Christian and Nettie therefore seems to have met both girls' need for acceptance and emotional support. Nettie's description of the rare type of friendship, quoted above, is also evocative of a schoolgirl 'crush' similar to that experienced by Laura Rambotham in Henry Handel Richardson's novel, *The Getting of Wisdom*. In the novel Laura is directed to share the bedroom of Evelyn Souttar. Evelyn is described as being 'over eighteen and only needed to turn up her hair to be quite grown up' while Laura 'had remained childish for her age.'⁷³ Laura unsuccessfully resisted the direction to move and tried to avoid Evelyn as much as she could. She was astonished, but flattered, when Evelyn told her that she had asked for Laura to share her room.⁷⁴ Gradually, Laura unbends and 'she began to return the liking, with interest, after the manner of a lonely bottled up child... Laura loved pretty things and pretty people; and her new friend was out and away the prettiest girl in the school.'⁷⁵ Laura eventually becomes quite obsessed with Evelyn and jealous of her friendship with a man.

Nettie thought that Christian was beautiful. In her Commonplace Book Nettie observed 'I wish I could have Christian's portrait painted seven several times, by Botticelli. He could do it.' However, Christian's looks are more reminiscent of the work of Dante Gabriel Rossetti. A pastel portrait he executed in 1878, entitled *Pandora*, looks remarkably like Christian. In a letter to Vance Palmer in 1911, Nettie wrote that 'one part of me had always envied [Christian] her grace and beauty.'⁷⁶ Both statements imply a degree of hero-worship. Other passages in the Commonplace Book, where Christian is specifically named, suggest that Christian was pragmatic with her feet firmly grounded, and not given to flights of fancy, as perhaps was Nettie. This seems to be confirmed by a passage dated 20 October, 1907, in which Nettie wrote 'It is just here that Christian and I are at variance. She recognises her limitations, and, always in the light of them, lives a life consistent with their existence.'⁷⁷ Finally, it is possible that Nettie's introspective writings in her Commonplace Book were not about Christian at all. The evidence for a lesbian relationship between Christian and Nettie is thus very tenuous. While it may not be possible to come to a definitive conclusion, the alternative explanation that their intimate friendship met the needs of both women for sympathetic support would seem to be more plausible.

⁷³ GTW, *op cit*, p 197.

⁷⁴ *Ibid.*, p 199.

⁷⁵ *Ibid.*, p 200.

⁷⁶ Nettie Higgins to Vance Palmer, n.d [1911], *Palmer papers*, NLA MS 1174/1/425.

⁷⁷ Nettie Higgins, *Commonplace Book.*, p 23.

The emerging socialist

After her successful first year at university, in 1908 Christian enrolled in History of the British Empire Part 2, European History, Political Economy⁷⁸, and Constitutional History and Law Part 1. History of the British Empire Part 2 began where Part 1 left off, around the end of the reign of Charles II, and continued down to 1857. The history of industrial development was dealt with in this subject as well as colonial history, including Indian history, and modern constitutional problems. The President of the Royal Commission on the University of Melbourne thought that it was an enormous subject area.⁷⁹ There was an extensive reading list for this subject – Thomas Macaulay's *History of England from the Accession of James I* (1848-1855); Edward Lecky, *History of England in the Eighteenth Century* (1878-1890); Henry Hallam, *Constitutional History of England from the Accession of Henry VII to the death of George II*, (1827), Chapters 16-18; John Seeley *The Expansion of England* (1883); Thomas May, *Constitutional History of England Since the Accession of George III* (1861-63); Spencer Walpole, *History of England*, and histories of Scotland, India and Victoria.⁸⁰

The prescribed texts suggest that History of the British Empire Part 2 was also strongly Whiggish. Henry Hallam was an avowed Whig and his history reflects his political allegiance – supporting the supremacy of Parliament and the accountability of the King and his Ministers to Parliament. Also a lawyer, he saw the struggle between King and Parliament as a struggle to make the practice of government conform with the law. However, he did not support the Republican ideal of rule by Parliament alone. It was constitutional monarchy which he advocated.⁸¹ Macaulay began his *History* with the accession of James II in 1685 and the struggle between James and Parliament over religion and supremacy. He argued that the Glorious Revolution, in which James was deposed, had protected England from a more extreme revolution such as that which had occurred in France.⁸² Macaulay assured his readers that the revolutionary tide then sweeping the Continent would not reach England. Edward Lecky's *History of England in the Eighteenth Century* covered not only the important political events of the century but also the cultural and economic factors which contributed to

⁷⁸ It is entered as "Political Philosophy" on her student record card. However, Political Philosophy is not listed in the Calendar for 1908, only Political Economy. Political Economy, not Political Philosophy, was referred to in evidence before the Royal Commission on the University of Melbourne. I am assuming the subject was Political Economy.

⁷⁹ "Minutes of Evidence" *op cit.*, paragraphs, 1028-1038.

⁸⁰ *Calendar for 1908*, University of Melbourne Archives.

⁸¹ Timothy Lang, *The Victorians and the Stuart Heritage: Interpretations of a Discordant Past*, Cambridge University Press, 1995, pp 26, 40, 42-43.

⁸² William Thomas, "Thomas Babington Macaulay" *Oxford DNB*, Vol 35, pp 48-49.

England's progress. Lecky was a political liberal and his history was widely praised for its balanced treatment of the Irish Question and of the American War of Independence.⁸³ Of all the texts prescribed for British History only John Seeley's *The Expansion of England* in any way challenged the Whig view. Seeley thought that the Whig focus on constitutionalism ignored the other significant development – England's imperial expansion. He played down the importance of the Glorious Revolution, regarding the Restoration, the point at which Parliament first becomes a permanent institution, as the important constitutional change.⁸⁴ Thomas May was a clerk of the House of Commons and was highly regarded for his work in reforming and standardising procedures in the House.⁸⁵

The choice of texts for European History suggests that the course lacked depth. It appears to have covered the period from the Thirty Years War (1618-1648) to the end of the Napoleonic era (1815).⁸⁶ The reading list was less extensive than for History of the British Empire Part 2. It included Hassal, *Brief Survey of European History*, Books 3-8 (date of publication unknown); Samuel Gardiner, *The Thirty Years War* (1874); Lord Acton, *Lectures on Modern History* (1906), *The Cambridge Modern History* and J Holland Rose, *The Life of Napoleon*. Hassal's book was not noticed by historians of nineteenth-century historiography. It may have been prepared as a primer or textbook for schools as was Samuel Gardiner's *The Thirty Years War*.⁸⁷ Lord Acton published little in the form of monographs. His *Lectures in Modern History* is a collection of his lectures delivered while Regius Professor of Modern History at Cambridge which were published after his death. Acton was a Whig who had represented the Liberal Party in Parliament.⁸⁸ The main theme of his lectures is progress towards liberty, both political and religious.⁸⁹ Constitutional History and Law Part 1 was regarded as an Arts subject which was often taken by students who had 'no intention of going on to law at all.'⁹⁰ The course covered the history of the government of the British Empire including comparison of British institutions with those of other countries.⁹¹

It is impossible to know what Christian might have concluded from her studies in history. The emphasis on constitutional developments is not unexpected in a course leading to a

⁸³ Joseph Spence, "(William) Edward Hartpole Lecky", *Oxford DNB*, Vol 33, pp 29-30.

⁸⁴ PBM Blaas, *op cit.*, pp 36, 39.

⁸⁵ William McKay, "Thomas Erskine May", *Oxford DNB*, Vol 37, pp 561-562.

⁸⁶ University of Melbourne, *Calendar*, 1908.

⁸⁷ Ivan Roots, "Samuel Rawson Gardiner", *Oxford DNB*, Vol 21, p 431.

⁸⁸ Hugh Trevor-Roper, "Introduction", in Lord Acton, *Lectures in Modern History*, Fontana, London, 1960, p 7, 8, 10.

⁸⁹ GP Gooch, *op cit.*, p 362.

⁹⁰ Minutes of Evidence, *op cit.*, paragraph 29.

⁹¹ *Calendar for 1908*, University of Melbourne Archives.

Bachelor of Laws. However, she might have concluded that the overthrow of monarchs could be beneficial as this was the focus of Whig history. She would have studied the consequences of the overthrow of Charles I and James II, the American colonies' declaration of independence from the British Crown and the bloody revolution in France. She would also have studied the governments of Oliver Cromwell and Napoleon Bonaparte and their eventual defeat. When the Russian monarchy was overthrown in 1917, she might have drawn on this knowledge to help her comprehend its repercussions. Her studies in Political Economy, however, would have given her a different perspective: that of the foundations of capitalism.

The books listed for Political Economy were Adam Smith, *Wealth of Nations* (1776); William Hearn, *Plutology* (1864); Alfred Marshall, *Economics of Industry* (1879); F A Walker, *Political Economy* (1883); and Charles Gide, *Political Economy* (original publication date not known). Additional works listed for honours students were J S Mill's *Political Economy* Books I and V (1848) and *Logic* Book VI (1843), Herbert Spencer's *Principles of Sociology* (1893) and *The Study of Sociology* (1873) and Walter Bagehot *Economic Studies* (1880).

Adam Smith was an advocate of free trade and a so-called parent of *laissez faire* economics. In *Wealth of Nations*, Smith argued for the deregulation of economic activity with minimal intervention by governments.⁹² William Hearn, the foundation Professor of Modern History, Modern Literature and Political Economy at the University of Melbourne, was also an 'ardent free trader and exponent of *laissez faire*' and his '*Plutology* was essentially a defence of *laissez faire*'.⁹³ At time of its publication, in the middle of the nineteenth century, the concept of *laissez faire* was the dominant paradigm in economic thought. *Plutology* was never updated so that it represents Hearn's distillation of economic thought up to around 1863. Professor Elkington had been one of Hearn's students⁹⁴ and both were members of the Free Trade League of Victoria in the 1870s.⁹⁵ It is clear that, in his teaching, Elkington continued Hearn's emphasis on free trade and *laissez faire*. Elkington's view was that a practical rather than an academic approach to political economy was required in a university established in a commercial city like Melbourne. Consequently, 'there is a great deal as to the theory of value and interminable discussions about theories of rent and a number of other

⁹² John Cannon (ed), *The Oxford Companion to British History*, Oxford University Press, 1997, p 870-871.

⁹³ Crauford D W Goodwin, *Economic Inquiry in Australia*, Duke University Press, Durham NC, 1966, pp 247, 289.

⁹⁴ Peter Groenwegen and Bruce MacFarlane, *A History of Australian Economic Thought*, Routledge London, 1990, p55.

⁹⁵ Goodwin, *op cit*, p50.

matters that I treat very lightly indeed.’⁹⁶ Nor did he follow the trend towards ‘German economics’ that was flourishing in England because it ‘is, to a great extent socialistic. I have no time for that. Socialism has its admirers and adherents but I do not count myself among them.’⁹⁷

With regard to the texts listed for honours students, the emphasis on *laissez faire* and free trade may have been modified though the study of J S Mill who, though supporting *laissez faire*, recognised that the market could fail.⁹⁸ On the other hand, Herbert Spencer was an advocate of limitations on state intervention.⁹⁹ In addition, Spencer was the authority most quoted in Victorian times arguing for the deleterious effect of education on women. Spencer used evolutionary theory and the (then popular) theory of conservation of energy to demonstrate that the education of women would use energy that was needed to rear children. However, as feminist scholars have shown, ‘analysis of [Spencer’s] works reveals his casuistry in arriving at predetermined conclusions...[H]is evidence rarely supports his conclusions’.¹⁰⁰

Despite the obvious biases in the teaching of political economy at the University of Melbourne, they were not necessarily a barrier to the development of socialist views. Another former PLC student, Marion Phillips, studied political economy at the University of Melbourne and won the Cobden Club Medal and a Wyselaskie scholarship for political economy. In 1904, she went on to study at the London School of Economics and Political Science where she was awarded a DSc in economics. She was then employed as a research assistant by the Fabians, Sidney and Beatrice Webb. She was a member of the Fabian Society and the Independent Labour Party and several women’s and suffrage societies.¹⁰¹ Christian probably never knew her but may have heard of her achievements while at PLC.

That Christian was already familiar with land reformer Henry George is known as she was credited with introducing Henry George’s book to her friend Sydney Johnson around this time. In August 1961, Christian informed Nettie that she had received a letter from ‘a chappie called Pitt sending a copy of the Henry George paper with a long account of Sydney’s life and

⁹⁶ Minutes of Evidence, *op cit.*, paragraph 1080.

⁹⁷ *Ibid*, paragraph 1084.

⁹⁸ Cannon, *op cit.*, p 643.

⁹⁹ *Ibid*, p 883.

¹⁰⁰ Lorna Duffin, “Prisoners of Progress: Women and Evolution”, in Sara Delamont and Lorna Duffin (eds) *The Nineteenth Century Woman: Her cultural and Physical World*, Croom Helm, London, 1978, pp 60- 61.

¹⁰¹ Beverley Kingston, “Marion Phillips”, *ADB*, Vol 11, pp 216-217.

death.’¹⁰² The ‘Henry George paper’ was a small magazine called *Progress*, the journal of the Henry George League in Victoria which promoted Henry George’s single tax. In its obituary of Sydney Allan Johnson, Christian is named as introducing Sydney to Henry George’s *Progress and Poverty* when he was in his twenties.¹⁰³ The obituary also indicated that Sydney Johnson had served in Egypt and France during the First World War.

According to the attestation papers in his military file,¹⁰⁴ Sydney Johnson was 35 years and four months old when he joined the AIF on 17 March 1915 which indicates that he was born in late 1879. His occupation was recorded as farmer and his address at Woodend, a small town north-west of Melbourne, where he was born. He is described as being five feet eight inches (173 cm) tall and weighed 168 pounds (76.5 kg). He served in the 15th Field Ambulance Corps. His obituary states that after he returned from the war, he worked in Queensland building wheat silos before becoming a café proprietor in Woodend.¹⁰⁵ After Christian introduced him to Henry George he became a lifelong supporter of the single tax but the single tax was already an outdated concept in 1908¹⁰⁶ and Christian had moved on.

There were other sources of socialist ideas which may have interested Christian at this time. During 1908, Christian’s friend Nettie corresponded with Bernard O’Dowd about the possibility of establishing a Fabian Society in Melbourne and Nettie may well have discussed these developments with Christian. In June 1908, O’Dowd wrote to Nettie thanking her ‘for reference to possibility of three people being interested in Fabianism. I am supposed to be getting people together to chat the matter over and Sinclair has offered the use of a room for the purpose.’¹⁰⁷ The Fabian Society of Victoria was formed in September 1908.¹⁰⁸ Secretary of the fledgling Society was the Reverend Frederick Sinclair, who had been appointed to the Eastern Hill Unitarian Church, Melbourne, in 1907. Sinclair had joined the Fabians while at Oxford and was an admirer of the ideas of George Bernard Shaw. After an attack on the ‘ungodly religious’ by Tom Mann, one of the founding members of the Victorian Socialist Party, Sinclair sought the opportunity for a right-of-reply which he delivered at the Bijou

¹⁰² CJS to Nettie Palmer, August 14 [19]61, *Aileen Palmer papers*, NLA MS 6759, Box 3, Folder 25.

¹⁰³ Obituary “Sydney Allan Johnson”, *Progress*, No 633, August 1961.

¹⁰⁴ National Archives of Australia (NAA) Series B2455/1, Item 1828108, Sydney Allan Johnson.

¹⁰⁵ Deborah Jordan has suggested that Johnson was “an older professional man, married with two children” at the time his relationship with Smith began. (Deborah Jordan, *Nettie Palmer: Search for an Aesthetic*, Melbourne University Press, 1999, p102.) However, this seems to be a case of mistaken identity. The Victorian Death Index for the years 1921-1985 lists two men named Sydney Allan Johnson (one who died in 1961 and one who died in 1972 aged 72) and nine other men named Sydney Johnson.

¹⁰⁶ Bruce Scates, “Wobblers: Single Taxers in the Labour Movement, Melbourne 1889-1899”, *Historical Studies*, Vol 21, No 83, October 1981, p 174.

¹⁰⁷ Bernard O’Dowd to Nettie Higgins, 28/6/08, *Palmer papers* NLA MS 1174/1/108.

¹⁰⁸ Bernard O’Dowd to Nettie Higgins, 5/9/08, *Palmer papers* NLA MS 1174/1/110; Walker, *op cit.*, p 76.

Theatre, Melbourne, in April 1908. In his speech, Sinclair identified himself as a socialist and argued that religion and socialism could jointly work towards a fairer society. Shortly after this speech Sinclair joined the Victorian Socialist Party.¹⁰⁹ The other founding members of the Fabian Society of Melbourne included Elizabeth Lothian, another former student of the Presbyterian Ladies College, who had joined the Fabian Society while studying classics at Cambridge from 1905 until 1907,¹¹⁰ and Vida Goldstein,¹¹¹ also a former student of the Presbyterian Ladies College, and well-known advocate of voting rights for women (which were finally granted in Victoria in 1908).¹¹² Another member was Walter Murdoch.¹¹³

Nettie herself seems to have had reservations about joining the Fabian Society. In a letter to Nettie, in September 1908, Bernard O'Dowd agreed with her 'and, I find, Miss Lothian holds the same view, that it is highly desirable to gather those willing to discuss social and economic principles (and perhaps even to study them) without committing them to any Shibboleth.'¹¹⁴ So another group, the Social Science Club, which did not require its members to be socialists, was formed. Walker suggests that this club was established to satisfy people like Nettie Higgins who were reluctant to commit themselves to socialism.¹¹⁵ Nettie's ambivalence also comes out in a letter she wrote to Vance Palmer where she said she was 'puzzled by things the Melbourne Fabians have said about incompatibility of ideas, about the wilful ignorance and blunders of the Melbourne Socialist Party.'¹¹⁶

On 1 August 1908, Nettie noted in her Commonplace Book that 'today's *Argus* had a straight-hitting leader about Socialism, demonstrating that Socialism and Christianity were essentially opposed.'¹¹⁷ Christian's father wrote leaders for the *Argus* and it is possible that he was the author of this one. The leader concluded that socialism would not solve the problem of poverty. 'Better conditions are wanted, [but] socialism will not bring them about (on the contrary, will make them worse)...The ardent churchmen who lean to socialism are right in their desire to push on improvement. The point is they are not wise in their methods.' The author of the article implied that the wise approach was through Christianity. If the *Argus*

¹⁰⁹ D R Walker, "Frederick Sinclair", *ADB*, Vol 11, p 616; Race Mathews, *Australia's First Fabians: Middle Class Radicals, Labour Activists and the Early Labour Movement*, Cambridge University Press Melbourne, 1993., pp 184-185.

¹¹⁰ Cecily Close "Elizabeth Inglis Lothian", *ADB* Vol. 10, p 126.

¹¹¹ However, her biographer Janette Bomford does not mention this. See Janette M Bomford, *That Dangerous and Persuasive Woman - Vida Goldstein*, Melbourne University Press 1993.

¹¹² Mathews, *op cit.*, pp 187-188.

¹¹³ *Ibid.*, p 200-201.

¹¹⁴ Bernard O'Dowd to Nettie Higgins, 5/9/08, *Palmer papers* NLA MS 1174/1/110.

¹¹⁵ Walker, "Dream and Disillusion", *op cit.*, p 76.

¹¹⁶ Nettie Higgins to Vance Palmer, n.d [1908], *Palmer papers*, NLA MS 1174/1/121.

¹¹⁷ Nettie Higgins, *Commonplace Book*, p 52.

leader was written by Christian's father then it suggests that Christian's emerging socialism could become a source of conflict with her parents.

Christian's examination results in second year were not as good as they were in her first year. She merely passed in History of the British Empire Part 2, European History and Political Economy and failed in Constitutional History and Law Part 1. Needing to pass the latter subject in order to continue with law, she resat the examination a month later and passed. Christian had already passed Latin, another required subject, in 1906.¹¹⁸ Having passed the subjects required to proceed, Christian enrolled in third year law in 1909.

In the final two years of the law degree the subjects were exclusively legal. In order to be admitted as a solicitor, law students were required to study subjects prescribed in the *Legal Professions Practice Act 1891*.¹¹⁹ In 1909, Christian was required to enrol in four subjects: Jurisprudence including Roman Law, the Law of Property in Land and Conveyancing, the Law of Contract and Personal Property and Constitutional History and Law Part 2. These subjects provided the grounding for the main legal aspects that a solicitor would face in practice – property transfers, drafting wills and contracts – which would generally not involve court appearances unless there was a dispute. *Jurisprudence including Roman Law* covered 'the history, nature and classification of law and legal phenomena with reference to Roman and English law.' The *Law of Property in Land and Conveyancing* covered all aspects of buying and selling land, the rights of creditors in relation to the property of debtors and the Married Women's Property Acts of 1890 and 1896. *The Law of Contract and Personal Property* covered the principles underlying the English law of contract and the laws relating to personal property. *Constitutional History and Law Part 2* covered Australian constitutional history to 1851 and the Government of Victoria.¹²⁰ There was an extensive list of text books for all of these subjects.

During 1909, Nettie's, and possibly Christian's, developing socialism may have been influenced by Vance Palmer whom Nettie met in late 1908 or early 1909.¹²¹ Seventh child of

¹¹⁸ *Student Record Card*, University of Melbourne Archives.

¹¹⁹ Minutes of Evidence, *op cit.*, p 4.

¹²⁰ *Calendar* for 1910, University of Melbourne.

¹²¹ It is not clear exactly when this meeting occurred. Walker, *op cit*, p 39 suggests that it may have occurred as early as 1907 as does Race Mathews, *op cit*, p 191, but Palmer was in London, then travelling in Russia and Japan before returning to Queensland in 1907 (Geoffrey Serle, "Edward Vivian (Vance) Palmer", *ADB*, Vol 11, p 1260. Jordan, *ADB* Vol 11 p 129, states that it occurred in January 1909 but the placing of Nettie Higgins's letter to Vance Palmer, in the *Palmer papers* (NLA MS 1174/1/121) suggests it could have been at the end of

a Queensland based school-teacher, Palmer's literary ambitions took him to London in 1905¹²² where he became acquainted with Fabian socialism although he does not appear to have become a Fabian himself.¹²³ In 1906 and 1907, while he was in London, the [London] Fabian Society was riven by a dispute between the Old Guard, represented by George Bernard Shaw and Sidney and Beatrice Webb, and H G Wells (who had joined the Fabians in 1903¹²⁴) over the Society's policy of achieving social change through permeation (that is, infiltrating and working from within) of existing political parties rather than revolution. Wells's introduction to the Society had attracted a flow of younger members, in whose activities Wells became closely involved. While Wells's campaign to change the Society's approach to achieving social change was defeated, his experiences provided the foundation for several of Wells's novels including *Ann Veronica* (published in 1909) and *The New Machiavelli* (published in 1911).¹²⁵

Palmer returned to Australia in 1907, spending a year teaching in Brisbane before visiting Melbourne in late 1908 and early 1909, when he met Nettie, after which he returned to Queensland.¹²⁶ Throughout 1909, Palmer and Nettie corresponded, discussing their views on literature, religion and socialism. It is quite possible that Nettie also discussed Palmer's views with Christian. Without mentioning Christian by name, Nettie certainly told Vance about discussions with her friend to whom she refers as 'the only girl in the world', 'my mate' or 'my girl mate.' In August 1909, Nettie wrote to Vance from Montrose, then a village in the Dandenong Ranges east of Melbourne and now an outer suburb of Melbourne, where she was holidaying with 'the only girl in the world.' A male visitor is expected who will be a 'disturbing element' and will require her services as a chaperone.

It means the lowlights of Melbourne 25 miles away and quiet days to spend with the only girl in the world. We came here at midday today and it has been better than I dared hope. She and I - well, we do agree on fundamentals more or less...such as the need for socialism and a few things that are more personal. We lived in each others lives though often far apart for the space of a couple of years and we'll never really get out of the way of it. I've many girlfriends being somewhat of the nature of that by product a Girls Girl but still there is the only girl in the world and she's here now. Of course the

1908. Race Mathews places Vance Palmer in London in February 1909 (p 190) but this is clearly incorrect as Nettie's letter, to which he refers is addressed to Vance at Nicholson Street, Fitzroy.

¹²² Serle, *ADB*, Vol 11, p 126.

¹²³ Walker, "Dream and Disillusion", *op cit*, p 38.

¹²⁴ H G Wells, *Experiment in Autobiography*, Volume 1, Faber and Faber, London, 1984, p 257.

¹²⁵ Lovat Dickson, *H G Wells: His Turbulent Life and Times*, Macmillan, London, 1969, pp 118-128, 256.

¹²⁶ Walker, "Dream and Disillusion", *op cit*, p 39.

Disturbing Element turns up on Saturday but he won't do any harm at all and I will be the Elegant but Invisible chaperone.¹²⁷

For whom is Nettie providing the role of chaperone? The evidence of subsequent letters suggests that 'the only girl in the world' refers to Christian. If so, then the 'disturbing element' is clearly visiting Christian as the reference to the role of chaperone implies. But who is he? There is no evidence of any man in Christian's life at this time other than Sydney Johnson. Nettie's remark that 'disturbing element...won't do any harm' does not suggest that she had any apprehensions about the relationship. Then in October 1909, Nettie writes from Christian's home about her 'mate.'

These days I've been away from home, staying with my mate. We can see the Dandenongs all the time from her study windows but when we are writing we don't look up much. She's doing third year law and her exam is precious. She is very musical and of course gets a frantic desire to go and play Bach...just when things press hard, as they do now.¹²⁸

At the end of 1909, Christian passed all four subjects of third year law at the first attempt.¹²⁹ On the basis of these and other like references in Nettie's letters to Vance, there is a strong case for assuming that the phrases 'the only girl in the world', 'my mate' or 'my girl mate' are references to Christian. In November, after their exams were over, Nettie wrote again to Vance describing another holiday.

My mate and I were on our lone in a little cottage on a wooded cliff - two days that were as happy as any I hope to know. Time seemed to stop and we had no need to say important things directly we thought of them. We bathed in the mornings talked the fire out at night and had meals when we pleased.¹³⁰

One of the topics they may have discussed by the fire at night was H G Wells' novel *Ann Veronica* which was the *succès de scandale* of 1909.¹³¹ The *Spectator*, 'a weekly widely read by clerics and prosperous paterfamilias' waged a campaign against what it called 'this poisonous book'.¹³²

¹²⁷ Nettie Higgins to Vance Palmer, 12 August 1909, *Palmer papers*, NLA MS 1174/1/211.

¹²⁸ Nettie Higgins to Vance Palmer, 15 October 1909, *Palmer papers*, NLA MS 1174/1/238.

¹²⁹ *Student Record card*, University of Melbourne Archives.

¹³⁰ Nettie Higgins to Vance Palmer, [November?] 1909, *Palmer papers*, NLA MS 1174/1/246.

¹³¹ Lovat Dickson, *HG Wells: His Turbulent Life and Times*, Macmillan London, 1969, pp 158-178, and HG Wells, *Experiment in Biography: Volume 11*, Victor Gollancz, London, 1937, p 470.

¹³² Dickson, *op cit.*, p 175.

Christian champions the 'New Woman'

Christian was evidently following the debate and decided to add to it. Her letter defending *Ann Veronica* against the criticism that it was 'a poisonous book' was published in the 'Red Page' of the *Bulletin* on 27 January 1910 over the initials C.J.O.S.¹³³ However, Christian and Nettie were unaware of its publication until Vance Palmer wrote to Nettie enclosing the cutting and asking 'Perhaps you can tell me who wrote this 'Woman's View of 'Ann Veronica'', seeing that it came from Victoria.'¹³⁴ Nettie responded delightedly.

Yes, I do know the writer: it was my girl mate, a few weeks ago. And we're awfully glad you sent it because we didn't know it had come out. It was sent to the *Lone Hand* on a vague chance and we thought that it had merely vanished. We aren't households that see the *Bulletin* and if you hadn't enlightened us, we'd have been forever in the dark.¹³⁵

Vance's response explicitly links 'the only girl in the world' to the writer of the letter published in the *Bulletin*. In March 1910, he wrote to Nettie recommending a book called 'London Streets' by 'the editor of the Red Page in which your only girl in the world figured lately.'¹³⁶

Christian was moved by the novel. '*Ann Veronica* appeals to every woman who reads it', she wrote, 'and the alarm among the 'Mr Grundys' exhibits painfully their lack of insight into things that are probably happening in most of their homes.'¹³⁷ She goes on to argue that:

The key to the story, however, is freedom. It is as true now as it was in the eighteenth century that a girl is bound hand and foot until she marries; and often, unless she chooses her husband with a very wide open eye to her own interests, after marriage also. In some ways a girl has a more difficult life in the twentieth century than ever before; as the reins have been loosened in so obvious a way that she has all the semblance of freedom without the reality. She has a university education, earns her own living in an office or shop or profession, and yet is supposed, as has been said by the mother of such a one, 'not to think apart from her parents or in opposition to them on anything until she has a home of her own.' Her brain and individuality are more clamorous for life and more stifled than if she had never had any of this apparent freedom.

¹³³ CJOS, 'A Woman's View of 'Ann Veronica', Red Page, *The Bulletin*, 27 January 1910.

¹³⁴ Vance Palmer to Nettie Higgins, February 9, 1910, *Palmer papers*, NLA MS 1174/1/278.

¹³⁵ Nettie Higgins to Vance Palmer, February 1910, *Palmer papers*, NLA MS 1174/1/270.

¹³⁶ Vance Palmer to Nettie Higgins, March 1910, *Palmer papers*, NLA MS 1174/1/294.

¹³⁷ CJOS, 'A Woman's View of 'Ann Veronica'', *op cit*.

Christian seems to be reflecting on her own situation - the 'mother of such a one' must surely be a reference to her own mother. Her situation appears to reflect the relationship between mothers and daughters described by Nancy Chodorow: 'mothers feel ambivalent towards their daughters and react to their daughters' ambivalence to them. They desire both to keep their daughters close and to push them into adulthood. This ambivalence in turn creates more ambivalence in their daughters and provokes attempts by these daughters to break away.'¹³⁸ Christian must have felt that Ann Veronica's experiences mirrored her own - someone who was not allowed to live, who was not allowed the freedom to learn by her own experiences, who was expected to follow her parents' ideas. Now approaching twenty-five, Christian clearly thought that she was entitled to more freedom than she was allowed.

Circumstantial evidence of Christian's struggle for psychological separation at this time may be gleaned from a long letter written by Nettie to Vance in January 1910 about a month before she received the *Bulletin* clipping. While Christian is not named, there can be little doubt it is Christian to whom she is referring given her allusion to *Ann Veronica*. 'Today', Nettie wrote, 'two people quite separately talked to me of suicide. They both happen to matter to me very much and yet I felt I could be of no use at all. The man...' and she goes on to describe the circumstances of the man. Then she turns to describing the circumstances of the girl who seemed to be bent on self-destruction.

[T]he girl has somehow become crushed and maimed in one of those "ideal" homes where the daughter is supposed to think as her parents do, until she marries. She is far worse off than Ann Veronica for, unlike Ann's, her parents are really thoughtful people who have studied the species daughter and they prescribe for her throughout and expect her to account for every atom of her time and even her thoughts. And if she rebels or if she suffers quietly, they understand quite well for its all a phase and when she's their age she'll maybe know what it all means. And meanwhile her parents know her phases because they went through them themselves - well and good, and now they're conservative. But the father, at any rate, fought and won his own way to the conservative position he now values and respected each of his own phases as he entered them, respected them at any rate sufficiently to live through them more or less fully.¹³⁹

According to Nettie, the girl's home was a place where 'the simplest attempt at plain speaking means a scene and she is told she is self-centred, secretive, not sharing her interests with her

¹³⁸ Nancy Chodorow, *op cit.*, p 135.

¹³⁹ Nettie Higgins to Vance Palmer, January 1910, *Palmer papers*, NLA MS 1174/1/263-264.

parents and so on.’ The girl’s attempts at making her own friends outside the home are regarded as disloyalty. Miserable and unhappy, therefore, the girl ‘doesn’t see any particular reason for going on living.’ If it was Christian to whom she was referring, Nettie may well have been over-dramatising the situation by talking about suicide. In her letter to the *Bulletin* Christian wrote:

Ann Veronica differs from most girls, for they, with clear introspection, often called morbid by their parents, refrain from taking extreme measures. They do not run away from home, simply because they lack trust in themselves and desire not to inflict pain. They take the easier way, the way of marriage; and then begin, or try to begin, to live and develop as they should have been able to do years before.¹⁴⁰

Running away from home was not an option for Christian because, until she qualified as a lawyer, she could not support herself which meant living at home for at least another three years. Suicide, however, would have been a more extreme measure than running away from home and would have inflicted more pain. The easier way to escape was through marriage. Christian also argued that the critics had read too much into ‘the so-called illicit connection.’

Granted a man and a woman are equals and treat each other as such, and are living together for companionship and affection, is there any reason why they should not refrain from having children until they are ready and prepared to have them? H G Wells has paid a great compliment to the mutual respect and self-control of a man and woman.¹⁴¹

Christian thought that the book would appeal to women because of its closeness to reality. ‘The book,’ she wrote, ‘is truer, far fairer and squarer and more forcible than anything that has come to life so far.’ Indeed, Wells himself regarded the success of the book as being due, not only to the campaign against it, but also because ‘Ann Veronica came as near to being a living creature as anyone in my earlier love stories. This was so because in many particulars she was drawn from life.’¹⁴²

Ann Veronica Stanley, the heroine of Wells’s novel, was a ‘New Woman’. It seems that Christian also identified with the ‘new women’ who were young, educated and determined to experience life without the constraints imposed by Victorian ideals of femininity in which dependence, marriage and home-making were key components. In particular, the ‘New

¹⁴⁰ C.J.O.S., ‘A Woman’s View of Ann “Veronica”’, *op cit*.

¹⁴¹ *Ibid*.

¹⁴² HG Wells, *Experiment in Biography: Volume 11*, Victor Gollancz, London, 1937, p 470.

Woman' rejected marriage as a form of slavery, preferring free sexual unions.¹⁴³ Ruth Brandon described the 'New Woman' as one aspect of the shift in thinking about ways life should be lived, which included the emergence of various shades of socialism, which characterised the period from 1880 to 1914. Brandon studied three such 'new women' and their free pairings - Olive Schreiner and Havelock Ellis, Eleanor Marx and Edward Aveling and Amber Reeves and HG Wells. She concluded, however, that the partnerships were mainly ordered in accordance with the needs of the male partner, and that the male partner in each case sacrificed little while the female partners gave up something very important to them in order to sustain the relationship. In fact, apart from the lack of a marriage certificate, the relationships were very traditional in that the needs of the men were paramount.¹⁴⁴ Similar conclusions could be drawn about the 'free' relationships that Christian would enter into in her thirties.

Nettie worries about Christian

During January 1910 Christian and Nettie met often. Nettie's diary records several visits by or to Christian as well as a picnic at Hampton, a beachside suburb south-east of the City of Melbourne on the eastern shore of Port Phillip Bay, with her brother, Esmonde, Christian and other friends.¹⁴⁵ Nettie would soon leave for England and Germany to further her studies in linguistics¹⁴⁶ while Christian would return to university for her final year.

In the fourth year of her Law degree, Christian was required to take six subjects. They were: Administrative Law, the Law of Wrongs (Civil and Criminal), the Law of Procedure and Evidence, Private International Law, Equity, and Constitutional History and Law Part 3. These subjects dealt with more specialised areas of the law which a solicitor might not have much opportunity to deal with. *Administrative Law* was a relatively new subject, introduced in 1904, which covered external relations including immigration, naturalisation, extradition and fugitive offences; the classification and distribution of administrative functions; the machinery of the federal government and the public service; the functions of local government; and the relationship between the Executive and the Judiciary. *The Law of Wrongs (Civil and Criminal)* covered insolvency, trust law, crimes and punishments and civil wrongs.

¹⁴³ Barbara Caine, *English Feminism 1780-1980*, Oxford University Press, 1997, pp 135-136.

¹⁴⁴ Ruth Brandon, *The New Women and the Old Men: Love Sex and the Woman Question*, Secker and Warburg, London, 1990, pp 3-4, 249-251.

¹⁴⁵ Diary for 1910, *Palmer papers*, NLA MS 1174/16/1.

¹⁴⁶ Jordan, *ADB*, Vol 11, p129.

The *Law of Procedure and Evidence* covered procedures in the various courts, the principles of evidence, and extra-judicial remedies. *Private International Law* examined conflicts between the laws of different countries; and *Equity* dealt with personal property and also with insolvency and trusts. *Constitutional History and Law Part 3* covered the relatively new area of the Constitution of Australia dealing particularly with the history of the federal movement, the Constitution and the relationship between the states and the Commonwealth.¹⁴⁷ However, the law of divorce, in which Christian was later to build a successful practice, was not covered because 'if the student has done his reading work, he will be able to read the statute and understand it.'¹⁴⁸ There was some evidence before the Royal Commission in 1903 that the study load law students were required to take in the final year of the course was considered heavy.¹⁴⁹ In previous years Christian had only been required to take four subjects and six subjects may have been a struggle particularly since she would no longer have the personal support of her best friend.

On 23 February 1910, Nettie left Melbourne on the *Osterley*.¹⁵⁰ While she was away Nettie corresponded regularly with the man who was to become her husband, Vance Palmer.¹⁵¹ Christian apparently also wrote regularly¹⁵² to Nettie while she was in Europe but unfortunately these letters have not survived. Nettie was clearly concerned about Christian's wellbeing while she was away. Not long after her arrival in London, Nettie wrote to Vance Palmer asking him to meet Christian, if he was passing through Melbourne.¹⁵³ However, Vance did not have the opportunity to do so until June when he was on his way to England. On June 13, 1910, he wrote to Nettie from on board his ship in Port Melbourne to say that he was looking forward to meeting Christian the next day.¹⁵⁴ He found her working in the law section of the Melbourne Public Library. Although he was meeting her for the first time, and Nettie had not given him a description, he claimed that he had recognised her immediately.

You didn't describe her outwardly at all but I knew at once when I found her...It was wonderful to find such a plucky rebellious spirit

¹⁴⁷ *Calendar for 1910*, University of Melbourne Archives.

¹⁴⁸ 'Minutes of Evidence' *op cit.*, p 243.

¹⁴⁹ Minutes of Evidence, *op cit.*, paragraph 32.

¹⁵⁰ Diary for 1910, *Palmer papers*, NLA MS 1174/16/1.

¹⁵¹ It is through Nettie's correspondence with Vance, and to a lesser extent with her mother and younger brother, Esmonde Higgins, that some details of Christian's life in 1910 and 1911 can be gleaned.

¹⁵² Diaries for 1910 and 1911, *Palmer papers*, NLA MS 1174/16/1-2. Also Nettie Higgins to Vance Palmer, *Palmer Papers*, NLA MS 1174/1/534.

¹⁵³ Nettie Higgins to Vance Palmer, 14 April 1910, *Palmer papers*, NLA MS 1174/1/311.

¹⁵⁴ Vance Palmer to Nettie Higgins, June 13, 1910, *Palmer papers*, NLA MS 1174/1/315.

concealed behind her calm face and restful eyes... You must have been very nearly right in the pseudonym with which you kept her name for me until a letter ago.¹⁵⁵

Meanwhile, Nettie continued to worry about Christian.¹⁵⁶ On 20 July, she noted in her diary that she had received disturbing news from Christian.¹⁵⁷ On the same day she received Vance's letter describing his meeting with Christian and responded immediately.

Can you guess I wonder, how much I wish I could have been where you were those hours you had with her. She has been going through pain – well, I have only once been through anything like it and then I am not so sensitive. In my interfering feminine way I think I could make things a little easier for her now.¹⁵⁸

What was the 'it' like Christian's that Nettie had been through only once? Nettie appears to be referring to physical pain. A letter written by the Crown Solicitor's office indicates that Christian underwent a surgical operation sometime between 25 July and 11 September 1916.¹⁵⁹ She referred to this obliquely in a letter to Nettie when the latter was in hospital after the birth of her second child, Helen. Christian was sympathetic. 'So the pain was Truly Pain after all. Drat the Profession: they wouldn't take my word for mine either.'¹⁶⁰ It is not known what the operation was for but she may have been experiencing symptoms as early as 1910 which were undiagnosed. If so, then discomfort could have made it difficult to concentrate on her studies.

At the final examinations, Christian failed in three out of these six subjects at the first attempt - Private International Law, Equity and the Law of Wrongs (Civil and Criminal). Nettie again recorded disturbing letters from Christian and Theo Sproule in her diary on 19 December 1910, and more disturbing news from Christian on 24 December.¹⁶¹ The timing of these diary entries suggests that Christian had written informing Nettie about her failure in three subjects in the November examinations. News about her failures may indeed have been disturbing to Nettie. Perhaps Theo Sproule also told her she had failed some subjects. However, students

¹⁵⁵ Vance Palmer to Nettie Higgins, Two days later [c 16 June 1910], *Palmer papers*, NLA MS 1174/1/316.

¹⁵⁶ Diary entry for 27 June 1910, *Palmer papers*, NLA 1174/16/1.

¹⁵⁷ Deborah Jordan speculates that the "disturbing news" was "possibly about an affair" and that the affair was with Sydney Johnson, (Deborah Jordan, *Nettie Palmer: Search for an Aesthetic*, (Melbourne University Press, 1999), pp 80, 102-103) but there is no evidence to support this conjecture.

¹⁵⁸ Nettie Higgins to Vance Palmer, 20 July 1910, *Palmer papers*, NLA MS 1174/1/319.

¹⁵⁹ "Miss Christian Jollie Smith" A 6119/90/2852, folio 1. The open reference to a "surgical operation" in the letter which was written by someone in the Crown Solicitor's Office suggests that Christian underwent a legal operation and not an illegal one such as an abortion would have been.

¹⁶⁰ CJS to Nettie Palmer, n.d [1917], *Palmer papers*, NLA MS 1174/1/1659.

¹⁶¹ Diary for 1910, *Palmer papers*, NLA MS 1174/16/1.

who had failed some of their subjects had the opportunity to resit their exams at the beginning of December. Christian resat her failed subjects and passed on the second attempt thus completing the requirements for the award of Bachelor of Laws. It seems that Theo was also successful. On 19 January 1911, Nettie wrote to her mother from Berlin expressing relief that 'Theo Sproule was through in everything.'¹⁶²

The marriage question

In January 1911, after a difficult year, Christian was holidaying by herself at the convent Notre Dame de Sion at Sale, in eastern Victoria, while the rest of the family went on to Lakes Entrance, a small seaside town further east. A separate holiday at a convent suggests a need for rest and nursing to restore her health and supports the view that the disturbing news that Nettie received in June and July was about Christian's health rather than an affair.¹⁶³

Christian wrote to Nettie's mother from the convent, recounting how she was enjoying the beautiful gardens and being waited on by the nuns. 'I have not been at all lonely or bored,' she said.¹⁶⁴ However, sometime early in the year, Christian was struck down with measles. In February, Nettie wrote again to her mother from Berlin expressing concern that 'she is not strong enough to stand any little pleasures like that.'¹⁶⁵

Meanwhile, Nettie and Vance Palmer had become engaged to be married. Christian sent a short note of congratulations.¹⁶⁶ Vance also introduced Nettie to guild socialism.¹⁶⁷ Guild socialism had developed as a reaction to the bureaucratic approach of the Fabians, and Palmer's own disappointment with the Fabians meant that he was open to other ideas about how to achieve social reform.¹⁶⁸ The champion of guild socialism was A R Orage, editor of *The New Age*, a literary and political journal, which he used as a platform for expounding the ideas of guild socialism.¹⁶⁹ In July 1911, Palmer succeeded in placing a short story in *New Age* and met Orage soon after.¹⁷⁰ Palmer later wrote a series of articles about 'national guilds' which were published in *Fellowship: Organ of the Melbourne Free Religious*

¹⁶² Nettie Higgins to Mother, *Palmer papers*, NLA MS 1174/1/387.

¹⁶³ See Jordan, "Nettie Palmer", *op cit.*, p 80.

¹⁶⁴ CJS to Mrs Higgins, January 1911, *Palmer papers*, NLA MS 1174/1/365.

¹⁶⁵ Nettie Higgins to Mother, 16 February 1911, *Palmer papers*, NLA MS 1174/1/415.

¹⁶⁶ Nettie Higgins to Vance Palmer, January 1911, *Palmer papers*, NLA MS 1174/1/377.

¹⁶⁷ Jordan, ADB, p 129.

¹⁶⁸ Walker, "Dream and Disillusion", *op cit.*, p 45.

¹⁶⁹ S T Glass, *The Responsible Society: The Ideas of the English Guild Socialist*, Longmans, London, 1966, pp 25-26.

¹⁷⁰ Walker, "Dream and Disillusion", *op cit.*, p 46.

Fellowship.¹⁷¹ *Fellowship* was edited by Frederick Sinclair, the erstwhile secretary of the Fabian Society of Victoria. A committed socialist, Sinclair's views were disapproved by his congregation and many of his fellow clergymen. In 1911, Sinclair resigned his position at the Eastern Hill Unitarian Church because of conflict with church members over his outspoken socialist views.¹⁷² Later in 1911, a number of former Fabians collaborated to form the Free Religious Fellowship with Frederick Sinclair as its minister.¹⁷³ According to *Fellowship*, which published one of her poems in the March 1915 edition, Nettie was a frequent visitor to meetings of the Free Religious Fellowship¹⁷⁴ after she returned to Melbourne from Europe in 1912. Christian also attended Free Religious Fellowship meetings¹⁷⁵ and it is probable that she also came into contact with the ideas of guild socialism at this time.

Christian's law degree was conferred on 8 April 1911 in Wilson Hall.¹⁷⁶ In an article with the sub-heading 'Sweet Girl Graduates', the *Argus* remarked that 'of 57 new bachelors, no fewer than 21 were of the gentle sex.'¹⁷⁷ Proud friends and relatives applauded enthusiastically as each graduand in gown and hood, white for law, was presented to the Chancellor, Sir John Maddern. Another woman also graduated in law that day. She was Stella Fida Greig, the youngest sister of the first law graduate, Flos Greig.¹⁷⁸

Christian remained living at home after she had completed her degree. One reason was that her parents expected her to remain at home until she married. Another reason was that, until she qualified as a solicitor and began earning her own income, she would not have had the financial resources to maintain independent living arrangements. However, it appears that Christian was not happy about her home life and complained to Nettie. In a letter to Vance Palmer in May 1912, Nettie observed that Christian was crushed by the way her parents treated her.

[Christian's] home life is pretty unbearable...her father and mother cramp her in quite indescribable ways and never admit that she gets older, just as they do. She's twenty-seven; she may be thirty-seven

¹⁷¹ *Fellowship*, Vol II, No 10, June 1916, No 11, July 1916, Vol III, No 1, August 1916.

¹⁷² Mathews, *op cit.*, p 209.

¹⁷³ *Ibid.*, p 210.

¹⁷⁴ *Fellowship*, Vol I, No 7, March 1915.

¹⁷⁵ Esmonde Higgins to Nettie Palmer, n.d [late 1914?], *Palmer papers*, NLA MS 1174/1/1260.

¹⁷⁶ This was the old Wilson Hall, built in 1882, which burned down in January 1952.

¹⁷⁷ "University Commencement: Sweet Girl Graduates", *The Argus*, 10 April 1911, p 6.

¹⁷⁸ Ruth Campbell and J Barton Hack, "Jane Stocks Greig, Janet Lindsay Stocks Greig, Clara Puella Greig, Grata Flos Matilda Greig, Stella Fida Greig", *ADB*, Vol 9, p 103. Stella Fida Greig died in 1913.

and still be hampered in the same way... There's no leaving home for her unless she marries.¹⁷⁹

The next step after finishing her degree was to complete her articles. This was often another hurdle for women law graduates. The father of Marie Byles, one of the first law students at the University of Sydney had to pay twice the usual fee in order to have his daughter articled to a solicitor.¹⁸⁰ Others were luckier in that their fathers or brothers were also lawyers. Anna Brennan, the second woman to be admitted to practice law in Victoria, was articled to her brother Frank Brennan and another brother, Thomas, moved her admission to practice in the Supreme Court of Victoria.¹⁸¹ However, Flos Greig did not have any difficulty in obtaining articles¹⁸² and, it seems, neither did Christian. During 1912, she served her articles with Mr J W Robertson, a solicitor who had rooms on the third floor of Stalbridge Chambers,¹⁸³ the same building in which Christian was to establish her own practice after she was admitted. With a name like Robertson it is possible that he was also of Scottish descent and part of the Presbyterian community.

In early 1912 Christian and Sydney Johnson appear to have come to the conclusion that their relationship had no future. Evidence that they seriously considered marriage but decided against it is contained in correspondence between Nettie and Vance. On 5 May, Nettie explained why Christian and Sydney had ended their relationship:

As you know she and Sydney have come to see that, however much there was in their love, it was not the kind that meant homemaking and life together. It has been forced into the background in both their lives and will never be anywhere else I'm afraid.¹⁸⁴

Vance responded 'And so Christian is not going to marry that man after all.'¹⁸⁵ After the end of her relationship with Sydney Johnston, Christian had misgivings about her chances of achieving an 'ideal marriage'.¹⁸⁶ However, since her parents insisted on her living at home while she remained unmarried, she contemplated a second-best marriage by marrying one of the men who wanted to marry her. Christian had admirers who treated her as 'an oracle or

¹⁷⁹ Nettie Higgins [in Melbourne] to Vance Palmer [in London], 5 May 1912, *Palmer papers*, NLA MS 1174/1/784.

¹⁸⁰ Alison MacKinnon, *Love and Freedom*, Cambridge University Press, Cambridge, 1997, p 131.

¹⁸¹ Ruth Campbell and Margaret Morgen, "Anna Teresa Brennan", *ADB*, Vol 7, p 396.

¹⁸² Table Talk, 18 May, 1905, p 14.

¹⁸³ "Personal", *The Argus*, 2 October, 1912, p 13.

¹⁸⁴ Nettie Higgins to Vance Palmer, 5 May 1912, *Palmer papers*, NLA MS 1174/1/784.

¹⁸⁵ Vance Palmer to Nettie Higgins, n.d [1912], *Palmer papers*, NLA MS 1174/1/804.

¹⁸⁶ Nettie Higgins to Vance Palmer, 5 May 1912, *op cit*.

goddess.’¹⁸⁷ Perhaps one of these would be suitable. Christian recognised that marrying for convenience was not very honest but was prepared to do so in order to reach her goal.

Christian admits that wrong in the abstract...that she would never do it if she could have independence unmarried. Besides she rather badly wants to give some children the chances she missed, the freedom in childhood and all that.¹⁸⁸

She was perhaps influenced in her decision to marry by observing Nettie preparing for impending marriage to Vance Palmer and planning to live overseas for some time after her marriage.

According to Nettie, there were two potential candidates.¹⁸⁹ One was a conventional young lawyer with whom Christian had a good relationship and who seemed easygoing enough for her to consider marrying him. He is described as being respectful of Christian’s opinions and he apparently believed that husbands and wives should have separate lives after marriage. He was also a Catholic, which Nettie saw as advantageous as it would mean that Christian could escape from the restrictive Sabbatarian views of her father. While Nettie believed that she was marrying Vance for himself, she conceded that ‘there would be a temptation to escape our Sundays and all they imply.’ Nettie also believed that Christian had always been ‘half a Catholic’. However, attitudes towards such mixed marriages had been recently exacerbated by the actions of the Catholic Church.

In 1907, the Catholic Church issued a decree, *Ne Temere*, which required all marriages between Catholics and Protestants to be performed in a Catholic Church by a priest. It also required that all children of the marriage be brought up as Catholics. The Presbyterian Church of Victoria protested against this decree on the grounds that it was ‘an unwarrantable restriction on the liberty of the subject... [and] ...because the probable and possible consequences of this decree are a serious menace to the domestic peace, social welfare and public morals of the community.’¹⁹⁰ That Christian, the daughter of a Presbyterian minister, would even consider marrying a Catholic in these circumstances is perhaps a measure of her desperation to marry in order to leave the family home.

¹⁸⁷ Nettie Higgins [in Berlin] to Vance Palmer n.d. [1911] *Palmer papers*. NLA MS 1174/1/425.

¹⁸⁸ Nettie Higgins to Vance Palmer, 5 May 1912, *op cit*.

¹⁸⁹ Nettie Higgins to Vance Palmer, 5 May 1912, *op cit*.

¹⁹⁰ “Presbyterian Assembly: Mixed marriages”, *The Argus*, Thursday, May 25, 1911, p5.

There was another man that Nettie thought Christian ‘would just as soon marry if he had been a little older and half a dozen other things. They are better companions in many ways.’¹⁹¹ The evidence suggests that this person was Edwin Tylor (Teddy) Brown. Teddy Brown’s attestation papers¹⁹² on joining the Australian Imperial Forces in June 1917 reveal that he was born in August 1889, which made him four and a half years younger than Christian. He was also a lawyer and he was still single at the time he joined up. However, it was not until late in 1913 that Christian eventually made her choice.

Christian was admitted as a barrister and solicitor in the Supreme Court of Victoria on 1 October 1912. The *Argus* reported that her sponsors were ‘Mr McArthur, KC and Mr Latham.’¹⁹³ ‘Mr McArthur’ was William Gilbert Stewart McArthur, the Australian-born son of Scottish parents who had migrated to the Western District of Victoria from Islay in Argyllshire, Scotland, in 1839. Admitted to the bar in 1884, he took silk in 1912 and was appointed to the bench of the Supreme Court of Victoria in 1920.¹⁹⁴ ‘Mr Latham’ was John Greig Latham who was admitted to the bar in 1904. He was later Federal Attorney-General from 1925 to 1929 and Chief Justice of the High Court of Australia from 1935 to 1952.¹⁹⁵ Christian’s and Latham’s paths would cross again several times in later years in very different circumstances.

¹⁹¹ Nettie Higgins to Vance Palmer, 5 May 1912, *op cit*.

¹⁹² “Edwin Tylor Brown”, NAA Series B/2455/1, Item 1795808.

¹⁹³ “Personal”, *The Argus*, 2 October 1912, p 13.

¹⁹⁴ J McI Young, “Sir William Gilbert Stewart Mc Arthur”, *ADB*, Vol 10, pp 195-196.

¹⁹⁵ Stuart Macintyre, “Sir John Greig Latham”, *ADB*, Vol 10, pp 2-6.



Chapter 3: Searching for Independence – 1913-1920

Struggling to find a foothold in the law

In Victoria the legal profession was ‘fused’, that is, after admission one could practice as both barrister and solicitor.¹ However, because of barristers’ refusal to accept briefs from those who practised as ‘amalgams’, most continued to practice as either a barrister or a solicitor.² Christian chose to practice as a solicitor. She established herself in Room 1 on the fourth floor of Stalbridge Chambers, a seven-floor building at 443 Little Collins Street, Melbourne, not far from the intersection with William Street. On the same floor were three other solicitors, an architect, a quantity surveyor and a licensed surveyor. The occupancy of the other floors was a mixture of professional services such as solicitors, accountants and surveyors. There were also a few commercial firms – an importer and stationer, a permanent building society, a finance agency and an advertising agent. There were a few women. A group of ‘lady’ artists had a room on the fifth floor and Miss Muriel Peck, ‘lady’ typist, had a room on the sixth floor. The seventh floor was occupied by the caretaker.³

A photograph taken at this time (facing page) shows Christian, unsmiling and serious, dressed as a typical Edwardian lady with a bow at her neck and a big hat.⁴ She also appears to be wearing a fur jacket. Outside her door a brass plate advertised ‘Miss Jollie Smith, LLB.’ Christian chose to use the name Jollie Smith because she had been advised that ‘it would be worth a hundred a year to me in practice,’⁵ perhaps because it sounded like a hyphenated name and was thus more distinctive than just ‘Smith’. From then onwards, for the rest of her life, she always signed herself Christian Jollie Smith. The daily work of a solicitor was largely office based.

Perhaps one of the most important departments of a solicitor’s practice consists of conveyancing... You have a perfectly rigid form, a certain set of facts and you have to make your material fit into your form... [P]atience, accuracy and attention to detail are the chief requirements of the good conveyancer... There is also a great deal of a solicitor’s work which only requires sufficient practice to become quite simple such as Probate and Insolvency work, the various methods of bringing

¹ JBS Forbes, *The Divided Legal Profession in Australia*, The Law Book Company, Sydney, 1979, p 75.

² *Ibid.*, pp 122, 127.

³ Sands and McDougall, *Directory of Victoria*, 1914.

⁴ Photograph published in Edith Willard’s article, *op cit.* and reproduced opposite.

⁵ Edith Willard, *op cit.*

and carrying on actions...Then there is Police Court work, some of which falls to the share of almost every solicitor.⁶

Christian told the journalist Edith Willard that she had several cases but conceded that ‘naturally, a connection is not made in a day.’⁷ It is not clear how many clients Christian was initially able to attract but one of her first was the family of her old school friend Hilda Bull. Apparently Hilda’s father had appointed Christian to be the Bull family lawyer in order to help her establish her practice. However, after Hilda’s father died suddenly in 1913, a dispute developed between Hilda and the rest of her family over the terms of her father’s will.⁸ As the family’s solicitor as well as Hilda’s, Christian was caught in the middle. Hilda accused Christian of supporting the other family members against Hilda’s claims and withdrew her affairs from Christian. Christian then resigned her position as the family’s solicitor.⁹

Dithering over marriage

Sometime before Christmas 1913, Christian decided to marry the Catholic lawyer and they became engaged but she soon had doubts about whether she had made the right decision.¹⁰ His name was David, and it was he who had ended the engagement on religious grounds. The strictures of the Papal *Ne Temere* decree, which required that any children of a marriage between a Catholic and a Protestant be brought up in the Catholic Church, may have contributed to his misgivings about the proposed marriage. He apparently told Christian that he did not trust her to bring up his children. Christian’s reaction, though unspoken, was that ‘at the bottom of my heart I said to myself I didn’t think I could trust him to bring up mine.’

Christian revealed that she had misgivings about marrying David from the first. ‘I knew I didn’t love [David] as I wanted to – I knew I loved Teddy,’ she said. Christian had evidently tried to convince herself that marriage to David was the better choice because sharing his life would give her what she wanted.

I wanted to love David. I loved the idea of him. (I do still). I wanted
above all the life he could give me. I wanted his children. I wanted to

⁶ G Flos Greig, “The Law as a Profession for Women”, *Commonwealth Law Review*, March-April 1909, p 152.

⁷ Willard, *op cit*.

⁸ Peter Fitzpatrick, *Pioneer Players: the Lives of Louis and Hilda Esson*, Cambridge University Press, Melbourne, 1995, pp120-121.

⁹ Nettie Palmer to Vance Palmer, n.d. [February, 1919], *Palmer papers*, NLA MS 1174/1/2037.

¹⁰ CJS to Nettie Palmer, 21.11.14, *Palmer papers*, NLA MS 1174/1/1278. The following description is based on this letter.

share his life. It was the biggest and finest thing I had struck and it seemed to me I'd justify my existence by sharing it.

However, she was still seeing Teddy and 'said some pretty emotional things about his being part of me and our always being friends.' She appears to have revealed her conflicting feelings to both men and David, at least, was not impressed. 'David, said I was becoming Tommyrotic.' What Teddy thought is unknown but it appears that he had gone away after she became engaged to David. The stress of her conflicting emotions led her to confide to a friend that she cared more for someone that she had never considered marrying than for David. 'I never mentioned Teddy's name but I told her I couldn't see daylight and I felt myself caring absurdly for someone else.' After discussing the situation with her friend, she again convinced herself that marriage to David would 'be the best for me' and continued to make preparations. 'From then I burned my boats; sort of put all my eggs into one basket; told people and made arrangements to fix up my business in 6 months.'

Christian's letter to Nettie reads like a stream of consciousness so it is difficult to determine the sequence of events. However, it seems that Christian thought that Teddy had cared 'some two years back and had changed his mind.' Believing that Teddy did not care, she decided to marry David, convincing herself that he was the better option in spite of the religious differences. However, there were many misunderstandings between them which might not have happened if their love had been of 'the right sort.' Two months after her engagement to David ended Teddy returned. At first Christian thought that they would merely continue to be friends but she came to believe that there was the possibility of more than friendship between them. 'He does care and so do I as far as I let myself. Of course, there is no talk of marriage, there is no talk even of love. I don't know how he feels about it,' she explained.

Christian wondered how her change of mind would be perceived by Nettie ('Do you think my changes are inexplicable?') and by Teddy ('How is he to know I have found myself now any more than then?'). The conflict seems to have resulted in some kind of breakdown as Christian commented that 'Well, you know what happened and how I broke up.' However, while Teddy's return seems to have improved Christian's emotional well-being, ('I can truthfully say that I have not been so steadily happy as these last few weeks'), Christian was also worried that Nettie would 'never trust me again'¹¹ (apparently Nettie and Teddy were 'really great friends'¹²) and she asked Nettie not to tell Vance about her relationship with

¹¹ CJS to Nettie Palmer, 21.11.14, *Palmer papers*, NLA MS 1174/1/1278.

¹² Nettie Palmer to Esmonde Higgins, 21 August 1914, *Esmonde Higgins papers*, ML MSS 740, Folder 8.

Teddy because she felt that Teddy should be the one to tell Vance ('as it is Teddy's business to talk not mine'). This episode shows that in 1914, at the age of nearly thirty, Christian was still confused about her future.

The war intervenes

Christian makes no further reference to her relationship with Teddy until, in May 1917, she told Nettie not to continue asking after him, as 'I know neither of you like him.'¹³ On 4 June 1917, Teddy Brown joined the Australian Imperial Forces, was commissioned as a Captain and sent to Rabaul which was, at that time, the centre of the Australian military administration of the former German colony in New Guinea. In 1917, Edwin Tylor Brown was appointed as assistant Crown Law officer.¹⁴ When Teddy returned to Melbourne on furlough in 1918, and, according to Nettie, 'went out of his way to tell me he had voted for conscription in both referenda'¹⁵, he appears not to have met Christian. Teddy Brown settled in Rabaul after the war, conducting a successful legal practice there.¹⁶

When war broke out in August 1914, Nettie and Vance Palmer were living in France. They evidently believed then that Australia should not participate in the war. Nettie told her brother on 24 September that 'I don't understand it in the least [the possible court-martial of a friend]. This isn't an Australian war.'¹⁷ Christian, however, seems to have been initially supportive of Australia's role. On 28 September, Esmonde Higgins wrote to Nettie seeking her advice about Christian's attitude to the war as he had heard that Christian supported it. 'By the way do you know Christian Jollie's opinion of the war? Esmond [Keogh] says that Katie [Lush] affirms that she approves of the war.'¹⁸ Esmonde later reported to Nettie that 'Christian and Bernard O'Dowd and lots of decent people had become violently anti-Germany or else flag-waggers'¹⁹ which suggests that Christian did support the war at that time. If so, then over the next three years her opinion would change.

In September, Nettie's family were clearly concerned about what was happening in France. Esmonde sought advice about what to do from Christian, reporting to Nettie that he had 'been

¹³ CJS to Nettie Palmer, n.d [May 1917], *Palmer papers*, NLA MS 1174/1/1654.

¹⁴ S. S. Mackenzie, *The Australians at Rabaul: the Capture and Administration of the German Possessions in the South Pacific*, University of Queensland Press, 1987 (First published 1927), pp 256, 270.

¹⁵ Nettie Palmer to Vance Palmer, *Palmer papers*, NLA MS 1174/1/1914.

¹⁶ Obituary 'Edwin Tylor Brown' *Meanjin*, June 1957, p 188.

¹⁷ Nettie Palmer to Esmonde Higgins, 24 September 1914, *Esmonde Higgins papers*, ML MSS 740/8/47.

¹⁸ Esmonde Higgins to Nettie Palmer, September 28 1914, *Palmer papers*, NLA MS 1174/1/1255.

¹⁹ Esmonde Higgins to Nettie Palmer, *Palmer papers*, NLA MS 1174/1/1259.

down to Christian 4 or 5 times the last few days wondering whether we should cable at once and yarning.²⁰ They argued about the introduction of censorship and how the Government would administer the laws. Christian apparently thought that the Government would be reasonable but Esmonde thought otherwise.

[Christian] thinks Fisher [the Prime Minister] honourable and worthy and well meaning and I don't except the last, the cuss. She thinks he will exercise the censorship reasonably but a proclamation he issued is worse than the methods of the blanky Liberals allowing anything to be opened and kept and affording no safety for anything.

Esmonde was right. In January 1915, Nettie reported that one of her mother's letters had been intercepted by the censor. 'It was one of Mother's blameless letters accompanied by one of yours, not so blameless.'²¹ But by then Fisher was no longer leading the Government. He had resigned from Parliament in October 1914 and been appointed Australia's High Commissioner in London. The new Prime Minister was William Morris Hughes.

In Nettie's absence Christian was a source of advice and support for Esmonde. A diary entry for 4 December 1914, shows the nature of this relationship. 'Went up to town and talked to Christian,' Esmonde recorded, 'Got unprofessional advice about father's mandate re Collins St next year and about smoking at home and about attendance at Fellowship. Talked to her for nearly an hour.'²² Later in December, Esmonde was minding Christian's office while she was out.²³ However, Christian's legal practice was evidently languishing for she took a job in the public service.

In 1916, she began working as a temporary clerk in the Crown Law Office, first for a two month period from 23 May to 25 July, then continuously from 11 September until the end of 1917.²⁴ As a clerk she 'was principally engaged in the preparation of opinions and devilling for the Crown Solicitor.'²⁵ The need to employ temporary staff in the Crown Law Office was the result of one of the Hughes Government's policies for the conduct of the war which subjected Commonwealth Government departments to strict staffing controls. Positions were not filled on a permanent basis in order to keep open as many vacancies as possible for

²⁰ Esmonde Higgins to Nettie Palmer September 28 1914, *op cit*.

²¹ Nettie Palmer to Esmonde Higgins, 9 January 1915, *Esmonde Higgins papers*, ML MSS, 740/8/101.

²² Diary 1914, *Esmonde Higgins Papers*, ML MSS 740, Box 3, Item 18.

²³ Esmonde Higgins to Nettie Palmer, December 14 1914, *Palmer papers*, NLA MS 1174/1/1322.

²⁴ Commonwealth Investigation Branch, "Christian Jollie Smith", NAA A6119/90 [2852]. Folio 1.

²⁵ *Ibid*. "devil 4: junior legal counsel working for a principal" *Concise Oxford Dictionary*.

returned servicemen. Men who were eligible for enlistment could not be employed.²⁶ These policies provided openings for qualified women in the public service which was to Christian's advantage as there were few qualified women lawyers .

Christian's father was also preparing for a new career in 1916. He had offered himself as a missionary to work among the Japanese in Korea and had set himself to master the language. However, his plans fell through when the Japanese government prevented his posting.²⁷ One can only imagine how Christian received this news. Until that point, Christian may have been hoping that she could achieve independence without any action on her part as it is unlikely that she would have accompanied her parents to Korea. In addition to her private legal practice, her work as a temporary clerk at the Crown Solicitor's office would have meant that she could support herself in her parents' absence. She would turn thirty-two in March 1917 and she may have felt that unless she took her life into her own hands she would be shackled to her parents until their deaths. Her disappointment that her parents would not go to Korea freeing her from their constant supervision may have been the catalyst for a revolution in her life.

In 1916, the war in Europe was not going well. The United Kingdom had introduced conscription and Prime Minister Hughes wanted to follow suit but was constrained by the Labor Party's Constitution. The British Government asked Australia to provide more troops - an unprecedented request. In order to satisfy the British Government's appeal, Hughes proposed a referendum to obtain support for conscription. Although divided on the issue, the Labor Party eventually agreed to the referendum. At the end of August, Hughes announced that the referendum would be held on 28 October 1916.

New Friends

In 1911, the Reverend Frederick Sinclair established the Free Religious Fellowship and, in 1914, the magazine, *Fellowship*. The magazine asserted 'the principles of religious freedom [which] will have doctrines but no dogma.'²⁸ It is not clear when Christian joined the Fellowship, but at its meetings she was able to mix with others who had socialist views. Lesbia Keogh, later Harford, also attended Fellowship meetings as did Katie Lush. Both of these women were socialists. They were also active members of the Fellowship Committee

²⁶ Gerald E Caiden, *Career Service*, MUP 1965, p 122.

²⁷ Ian Breward, "Thomas Jollie Smith", *Australian Dictionary of Evangelical Biography*, p 345.

²⁸ *Fellowship*, Vol I, No 1, August 1914.

and addressed fellowship meetings²⁹ but Christian does not appear to have become involved in this way.

It was probably through the Free Religious Fellowship that Christian first met William Paisley (Bill) Earsman. Bill Earsman was 'a syndicalist with strong 'Wobbly' [Industrial Workers of the World] sympathies.' Born in Edinburgh on 16 March 1884, he was exactly one year older than Christian. In 1908, Earsman emigrated to New Zealand before moving to Australia in 1910. He was a skilled tradesman. From March 1911, he was a member of the Melbourne District Committee of the Amalgamated Society of Engineers becoming its Secretary in 1915 and 1916. He was also a member of the Victorian Socialist Party where he met Sinclair. Earsman joined the Free Religious Fellowship in 1913.³⁰ At the 1914 Annual General Meeting of the Fellowship, Earsman was elected to the administrative Committee.³¹ After his marriage in April 1914, his wife also attended.³²

Esmonde Higgins reported Earsman's marriage to his cousin in terms which suggested that the members of the Free Religious Fellowship were surprised.

Do you know this Mr Earsman? He was at the fellowship the night I was there...He strongly disapproved of marriage but went to New Zealand and came back with a wife. Mrs Sinclair didn't know if she could congratulate him.³³

Marriage apparently did not change Earsman's work habits. In Esmonde's view, Earsman's wife 'seems to be having a pretty boring time here waiting for her hubby to come home for he is at work all day and at Labour meetings all night.'³⁴ However, husband and wife must have had some time together because on Sunday 25 July 1915, James William Earsman was baptised at a Fellowship meeting.³⁵ Sadly, however, in June 1916, the Fellowship meeting recorded a resolution of condolence for Mr and Mrs Earsman on the death of their one-year-old son.³⁶

²⁹ *Fellowship*, Vol I, No 10, June 1915.

³⁰ Ann Turner, "William Paisley Earsman", *ADB*, Vol 8, p 403.

³¹ *Fellowship*, Vol I, no 5 December 1914.

³² Esmonde Higgins to Nettie Palmer, n.d [mid-1914], *Palmer papers*, NLA MS 1174/1/1115; Esmonde Higgins to Nettie Palmer, September 1914, *Palmer papers*, NLA MS 1174/1/1254.

³³ Esmonde Higgins to Nettie Palmer, n.d. [May 1914], *Palmer papers*, NLA MS 1174/1/1155.

³⁴ *Ibid.*

³⁵ *Fellowship*, Vol II, No 1, August 1915. He was born earlier in 1915. *Births, Deaths and Marriages, World War I index*, Victoria.

³⁶ *Fellowship*, Vol II, No 10, June 1916; *Births, Deaths and Marriages, World War I index*, Victoria.

Earsman joined the Anti-Militarist and Anti-Conscription League in 1915 and played a prominent role in both the 1916 and 1917 anti-conscription campaigns.³⁷ Sinclair was also passionately anti-conscriptionist and his magazine, *Fellowship*, was frequently censored.³⁸ Vance Palmer also campaigned against conscription.³⁹ It is not clear what role, if any, Christian played in the first anti-conscription campaign. Recently re-employed as a temporary clerk in the Crown Law office, she may have felt constrained by her position as a Commonwealth employee. In addition, while she remained living at home with her parents and as the Presbyterian Church strongly supported a YES vote in the referendum, she may have felt that playing an active part would generate further tension at home. Yet Christian would play an active role in the 1917 referendum and the evidence indicates that during 1917 Christian became more radical in her opinions. With Nettie now married with a child, Christian appears to have become much closer to Katharine Susannah Prichard who returned to Melbourne in 1916 after several years' absence in London.⁴⁰ Katharine recalls at this time discussing with 'Christian Jollie Smith, Bill Earsman and Guido Baracchi ...the war, socialism, syndicalism, philosophy, art and poetry.'⁴¹

There is no doubt that Christian already held socialist views by the end of 1916 when she met Guido Baracchi. Born in Melbourne on 11 December 1887, Baracchi was nearly three years younger than Christian. He attended Melbourne Church of England Grammar School until 1905. In 1906 he enrolled in Science at the University of Melbourne but did not complete the course. Baracchi subsequently enrolled in law in 1912.⁴² During his first year of law he had had some articles on socialism published in *Fleur de Lys*, the magazine of Trinity College, University of Melbourne. The following year he became joint editor of *Fleur de Lys* and also secretary of the Trinity Dialectic Society, a form of debating club. However, he was soon in trouble with the Trinity College authorities who took exception to two articles he had written and published in *Fleur de Lys*, one on socialism and the other on the behaviour of college men towards girls. He also invited a Federal Member of Parliament to participate in a debate being conducted by the Trinity Dialectic Society. The Warden of Trinity refused permission for the politician to enter Trinity College premises, so Baracchi arranged to hold the debate off-campus. At the end of the year he was censured by the Trinity College Social Club for producing an issue of *Fleur de Lys* that was inconsistent with the tone of the College.

³⁷ Ann Turner, *op cit*.

³⁸ DR Walker "Frederick Sinclair", *ADB*, Vol 11, p 616.

³⁹ Geoffrey Serle, "Edward Vivian (Vance) Palmer", *ADB*, Vol 11, p 126.

⁴⁰ John Hay, "Katharine Susannah Prichard", *ADB*, Vol 11, p 291.

⁴¹ Katharine Susannah Prichard, *op cit*, p 231.

⁴² *Guido Baracchi papers*, NLA MS 5241, Addition 26 November 1992, Folder 4.

Baracchi was then advised by the Law Professor to make himself scarce and arranged for him to attend the London School of Economics.⁴³ While in London Baracchi initially came into close contact with the Fabians but was later introduced to the ideas of AR Orage, the editor of the magazine *New Age* which promoted guild socialism, and became a convert to guild socialism. War broke out while he was returning to Australia in August 1914. In 1915 he returned to the University of Melbourne and continued his legal studies.⁴⁴ However, he was soon in trouble with the university authorities for his anti-war views which led to his being thrown into the lake in the grounds of Melbourne University in July 1917.⁴⁵ Baracchi was also involved in the second anti-conscription campaign which apparently radicalised him.⁴⁶ It was around this time that he met Christian.

In 1975, Baracchi recalled that he first met Christian when ‘she was already more absorbed in things like the Labor College.’⁴⁷ The Victorian Labor College was established in mid-1917 to provide the workers with an alternative to the university-sponsored Workers’ Educational Association which was regarded as ‘a bourgeois appendage, imitating the University and discouraging independent working class thought.’⁴⁸ The decision to establish a Labor College in Victoria was made on 9 June by Frederick Sinclair, Guido Baracchi and Bill Earsman.⁴⁹ Maurice Blackburn, who was later to have professional dealings with Christian after she established her legal practice in Sydney, was also one of the founders.⁵⁰ Earsman became the Secretary of the College. The College opened on 16 July 1917 in rooms provided by the Victorian Railways Union. Sinclair would teach English Literature and English Grammar, Baracchi - Economics, and Blackburn - Industrial History.⁵¹ It seems that Christian was also involved but, according to Nettie Palmer, her ‘connection with the College is purely voluntary and unofficial.’⁵² Katharine Susannah Prichard was recorded as being the first student to enrol, taking Economics and Industrial History.⁵³ The Victorian Labor College became the model for the establishment of similar colleges in other states and Christian’s association with

⁴³ [Alastair Davidson], “The making of a Communist: an interview with Guido Baracchi [1964]”, *Australian Left Review*, July 1971, pp 60-62; Jeff Sparrow, *Communism: A Love Story*, MUP, 2007, pp 32-40

⁴⁴ *Guido Baracchi papers*, NLA MS 5241, Addition 26 November 1992, Folder 4.

⁴⁵ Selleck, *op.cit.*, pp 567-569; Sparrow, *op.cit.*, pp 51-59.

⁴⁶ “Speech, 25.10.36”, *Guido Baracchi papers*, NLA MS 5241, Box 4, Folder 25.

⁴⁷ Guido Baracchi, *Oral History Collection*, TRC 373, Tape 1, Side 1, NLA (Draft transcript p 13).

⁴⁸ Bertha Walker, *Solidarity Forever*, The National Press Melbourne, 1972, p 147.

⁴⁹ Victorian College, Board of Management Minutes, 9 June 1917. *AT Brodney papers*, SLV MS 10882, Box 12. The Minutes do not record Blackburn as being present at this meeting.

⁵⁰ See Walker, Interview with Guido Baracchi, *op.cit.*

⁵¹ Minutes of the Board of Management of the Victorian Labor College, 9 June 1917, *op.cit.*

⁵² Nettie Palmer to Vance Palmer, 22.3.19, *Palmer papers*, NLA 1174/1/2082.

⁵³ Minutes of the Board of Management of the Victorian Labor College, 6 July 1917, *AT Brodney papers*, SLV MS 10882, Box 12.

the College provided experience that would prove useful in the establishment of a Labor College in Sydney in 1919.

Sinclair the former Fabian was now a supporter of guild socialism. He later adopted Douglas Social Credit,⁵⁴ which was based on the idea that the value of national assets could be used as collateral for funding the provision of public services during the Depression.⁵⁵ Blackburn was also a supporter of guild socialism. Earsman, however, was a syndicalist although he was prepared to accept guild socialism.⁵⁶ Baracchi claimed that ‘by 1917, I had gone a fair way towards orthodox Marxism.’⁵⁷ As we have seen, Christian may have been interested in Fabianism around 1910, subsequently gravitating towards Guild Socialism along with Vance and Nettie Palmer. In 1921, after the formation of the Communist Party of Australia, Nettie remarked to her brother Esmonde Higgins that Christian ‘seemed to think there was no need for me to be surprised that she was a communist although six months ago she was a syndicalist.’⁵⁸ Perhaps influenced by Earsman, it would appear that Christian also moved on from Guild Socialism to Syndicalism from around 1917. Given that they first met in 1917, it seems unlikely that it was Guido Baracchi who introduced Christian to socialism as has been suggested elsewhere⁵⁹ although Guido himself appears to have believed that Christian only became a socialist at this time.⁶⁰

In May 1917, Nettie Palmer gave birth to her second child, Helen. The birth was difficult and Nettie spent six weeks in hospital. It was while Nettie was in hospital that Christian told her about Sydney Johnson’s marriage. ‘Sydney and the damsel were married a couple of days ago... he came to see me on his wedding morn and received my congratulations.’⁶¹ Christian was distressed by Sydney’s deafness (‘I had to bawl at him all the time’) but she appeared to be unruffled by his marriage. She was more concerned about his recent discharge from the AIF, apparently horrified that he had worked the system in order to get back to Australia. Esmonde Higgins reported that ‘everyone feels he’s out to get as much out of the army as he can without giving more than necessary in return.’⁶² However, Sydney argued that ‘he had voluntarily given two years of his life to the Army and he thought that was ample – not

⁵⁴ Walker, Interview with Guido Baracchi, *op cit.* p18.

⁵⁵ Davison, Hirst and Macintyre (eds), *op.cit.*, p194.

⁵⁶ Walker, Interview with Guido Baracchi, *op cit.*, p 18.

⁵⁷ Walker, Interview with Guido Baracchi, *op cit.* p18.

⁵⁸ Nettie Palmer to Esmonde Higgins, 19.3.1921, *Esmonde Higgins papers*, ML MSS 740, Volume 9.

⁵⁹ Joy Damousi, *op cit.*

⁶⁰ Jill Joliffe, “Interview with Guido Baracchi”, NLA ORAL TRC 373.

⁶¹ CJS to Nettie Palmer, *Palmer papers*, NLA MS 1174/1/1657.

⁶² Esmonde Higgins to Nettie Palmer, nd [1918?], *Palmer papers*, NLA MS 1174/1/1866.

exactly an argument for the voluntary system is it?' Christian's remarks suggest that she was quite over her relationship with Sydney.

Fired by the Russian Revolution

In March 1917, [February in the Russian calendar] the Russian Tsar was overthrown and a provisional socialist government installed. With war raging in Europe, and in the wake of the first Russian revolution, many, including Prime Minister Hughes, thought that Australia was also on the brink of revolution when a general strike broke out in New South Wales. The New South Wales Government acted strongly to crush the strike and forced the strikers to surrender unconditionally. The strike failed partly because of lack of organisation and leadership and partly because of lack of solidarity among the workers, some of whom acted as strike breakers as a demonstration of national loyalty in a time of war.⁶³ This experience led some radical unionists to begin planning for a single over-arching organisation known as the 'One Big Union'.

Then, in November [October in the Russian calendar], the provisional government in Russia was itself overthrown by the Bolsheviks. When the news of the second Russian revolution broke, Katharine Susannah Pritchard recalled that she was 'walking into the city [of Melbourne], across Princes' Bridge⁶⁴ one evening, [when] I saw the first posters proclaiming the revolution in Russia.'⁶⁵ Katharine goes on to describe how she reacted to the news.

I lost no time in buying and studying all the books of these writers [Marx, Engels, Lenin and Trotsky] available in Melbourne. Discussion with Christian, Earsman and Baracchi confirmed my impression that these theories provided the only logical basis that I had come across for the reorganisation of our social system.⁶⁶

Guido Baracchi also recalled 'being fired by the Russian Revolution of November 7, 1917.'⁶⁷

The news of the second Russian revolution reached Australia on the same day that Prime Minister Hughes announced that there would be a second referendum on conscription for

⁶³ CMH Clarke, *A History of Australia*, Vol VI, Melbourne University Press, 1987, pp63-64; Frank Crowley (ed), *A New History of Australia*, William Heinmann, Melbourne, 1974, pp341-342.

⁶⁴ The bridge that crosses the Yarra River next to Flinders Street Railway station and links St Kilda Road with Swanston Street, Melbourne.

⁶⁵ Pritchard, *op cit*, p 231.

⁶⁶ Pritchard, *op cit*., p 239.

⁶⁷ Guido Baracchi, "The twenties", *Guido Baracchi papers*, NLA MS 5241, Folder 44.

overseas military service.⁶⁸ On Sunday 11 November, Christian visited Nettie and Vance Palmer at Emerald, then a village in the Dandenong Ranges east of Melbourne, where they were living.⁶⁹ Nettie recorded in her diary that Christian told them that Guido was proposing to start an anti-conscription paper and that Vance would be asked to edit it.⁷⁰ After dinner, Guido Baracchi and Bill Earsman, among others, arrived unexpectedly.⁷¹ However, the proposed paper did not eventuate as it needed the support of the Trades Hall Council which was not forthcoming.⁷²

The Board of Management of the Victorian Labor College met on 20 November to discuss what should be done about classes during the referendum campaign. Sinclair, Baracchi and Earsman attended and decided to close classes for the remainder of the year while they concentrated on campaigning for a 'No' vote.⁷³ All three campaigned actively, particularly in country Victoria where their reception was often hostile.⁷⁴ According to Nettie, Christian was also actively involved in 'anti-work'.⁷⁵ It may have been during the anti-conscription campaign that the relationship between Christian and Earsman matured. On Friday 6 December 1917, Earsman informed Nettie that he and Christian were coming to Emerald on the evening train arriving there at 10.⁷⁶ They talked almost all night then they were up at five am, after only three hours sleep, to catch the train back to Melbourne.⁷⁷

Did she jump ship or was she sacked ?

Christian's employment with the Crown Law Office was drawing to a close but there is a difference of opinion about the circumstances of her departure. On New Year's Eve 1917, Nettie recorded in her diary that 'Christian came at midday having just left her billet in the Crown Solicitor's Office for sufficient reasons'⁷⁸ which suggests that Christian left of her own accord. This interpretation is supported by a statement on her security file, apparently provided by the Crown Law Office, in response to a request from the Commonwealth Investigation Branch in 1921, which notes that 'there is no information available in this office

⁶⁸ Crowley (ed), *op. cit.*, p 343.

⁶⁹ D J Jordan, "Janet Gertrude Palmer", *ADB* Vol 11, p 130.

⁷⁰ Diary 1917-1918, entry for 11 November, *Palmer papers*, NLA MS 1174/16/3.

⁷¹ *Ibid.*

⁷² Walker, Interview with Guido Baracchi, *op cit.* p18.

⁷³ Minutes of the Board of Management of the Victorian Labor College, 20 November 1917, *op cit.*

⁷⁴ Walker, Interview with Guido Baracchi, *op cit.*, p19.

⁷⁵ Diary 1917-1918, entry for 2 December, *Palmer papers*, NLA MS 1174/16/3.

⁷⁶ *Ibid.*, entry for 6 December.

⁷⁷ *Ibid.*, entry for 7 December.

⁷⁸ Diary 1917-1918, *Palmer papers*, NLA MS 1174/16/3.

as to the reason for her ceasing duty but as the last period for which her employment was extended expired on 6 January 1918 it is possible that her services were no longer required.’⁷⁹ As a temporary clerk, Christian would have had no security of tenure and her employment would have continued only so long as she was needed. As it was the middle of the legal vacation there may not have been a great deal of work available, a legitimate reason for ending her contract. In addition, in 1917, New Year’s Eve was a Monday. The next day, New Year’s Day, was a public holiday so there were only three working days left before her contract was due to expire.

On the other hand, Verna Coleman suggests in her biography of Adela Pankhurst Walsh that Christian ‘lost her job’ because she was suspected of leaking information about possible deportation proceedings to Adela Pankhurst’s solicitor, AW Foster. Adela Pankhurst, a member of the famous British family of suffragettes, arrived in Australia in March 1914. When war broke out in Europe in August, Adela was one of those who opposed Australia’s participation. Throughout 1915 she gave speech after speech in support of peace. When the 1916 conscription referendum was announced Adela joined the campaign against it. During 1917, Adela continued to campaign for peace and against the Hughes Government. Her speeches were monitored by the Commonwealth Investigation Branch which considered prosecuting her for sedition. Prime Minister Hughes regarded her as a ‘d--d nuisance’ and thought about deporting her.⁸⁰

The evidence that Christian was responsible for leaking information about the possible deportation of Adela Pankhurst Walsh seems largely circumstantial. The Commonwealth Investigation Branch certainly did suspect Christian but their suspicion was based on the contents of a letter she wrote on 2 January 1918, two days after she had left the Crown Law Office, which was intercepted by the Censor. In the letter, Christian described ‘the absurd state of espionage Australia got into over the referendum. Letters seized, folks deported, Government Secret Service everywhere. I steadily refused to believe it myself until I got some of it myself and then I hit back... Life is well lost when you are drowned in a cause and fighting intrigue with intrigue and spying with spying.’⁸¹ There was apparently an inquiry into the leak to which Christian may have been referring in her letter. However, the fact that she was not prosecuted suggests that no substantive evidence against her was found. On the other hand, Guido Baracchi recalls that Christian ‘gave me warning well before I got into gaol

⁷⁹ “Miss Christian Jollie Smith”, NAA A6119/90/2852, folio 1. Smith’s personnel file no longer exists.

⁸⁰ Verna Coleman, *Adela Pankhurst: The Wayward Suffragette, 1885-1961*, MUP, 1996, pp 78-79, 84.

⁸¹ “Miss Christian Jollie Smith”, NAA, A6119/90/2852, folio 2.

that there was talk of prosecuting me under the War Precautions Act for certain things I had written and certain things I'd spoken about.'⁸² Baracchi would spend three months in gaol in 1918 for making statements likely to prejudice recruiting.⁸³ So Christian may indeed have used knowledge gained through her work to warn friends of prospective litigation.

At Emerald on New Year's Day 1918, Christian told Nettie and Vance that some of her referendum activities were 'enough to give her years in a fortress.'⁸⁴ Perhaps wisely, Nettie did not record what these activities might have been. Christian also told them about her plans to become a taxi-driver. She may have gained the idea from the success of Alice Anderson who had established a part-time business driving parties on picnics to the Dandenong Ranges. By 1918 she was working full-time from a backyard in Kew, an inner eastern suburb of Melbourne, and later in Cotham Road, Kew. Her business provided petrol supplies, vehicle repairs and a driving school as well as a twenty-four hour chauffeur service. There were also classes for women who wanted to learn about the mechanical side of motoring.⁸⁵

On the evening of New Year's Day Christian went back to Melbourne because she had many appointments the next day which may have been related to her legal practice. However, in 1918 she was no longer at Stalbridge Chambers. She was now living at Oxford Chambers, 473-481 Bourke Street, Melbourne,⁸⁶ just a block north of Stalbridge Chambers. Oxford Chambers seems to have provided both residential accommodation and offices for professionals such as accountants, architects, nurses and civil engineers. There were also a few service providers such as typists and hairdressers. On the ground floor were the offices of the State Accident Insurance Office. Oxford Chambers no longer exists, the site now occupied by a modern office building. In 1975, Guido Baracchi recalled that when he was living at Oxford Chambers Christian was also living there.⁸⁷ Baracchi, recently married,⁸⁸ occupied room 21 on the third floor. Christian is listed for room 9 on the fifth floor. There is no indication that the room was used as an office. It seems therefore that Christian had taken the initiative and moved out of her parents' home.

⁸² Joliffe, *op. cit.*

⁸³ Robin Gollan, "Guido Carlo Luigi Baracchi", *ADB*, Vol , p 105.

⁸⁴ Diary 1917-1918, entry for 2 December, *Palmer papers*, NLA MS 1174/16/3.

⁸⁵ Georgine Clarsen, "Alice Elizabeth Foley Anderson", *ADB*, Supplementary Volume, pp 8-9.

⁸⁶ Sands and McDougall, *Directory of Victoria*, 1918.

⁸⁷ Joliffe, *op. cit.*

⁸⁸ Robin Gollan, "Guido Carlo Luigi Baracchi", *ADB*, Vol 13, p 105.

It was also in January 1918 that Christian first came to the notice of the Censor when she wrote to Madame Juliette Grebin who was then living in Kansas, USA. Madame Grebin was a Russian émigrée who had been living in Melbourne until September 1917 when she left for San Francisco. Christian's letter was intercepted by the Censor because Madame Grebin's name was on the 'Suspect List'. It was the contents of this letter on which the Commonwealth Investigation Branch based their suspicions that Christian was responsible for leaking information about the proposed deportation of Adela Pankhurst Walsh. The Censor's summary of the letter also noted that Christian had been active in the anti-conscription campaign and that she was acquainted with members of the Russian community.⁸⁹ From this time until July 1919, many of Christian's activities can be traced through the Censor's reports.

Later in January 1918, Christian had lunch with Nettie and told her about her progress in setting herself up as a taxi-driver. She had established a trading name which was, apparently, 'Pamela Brown.' She also promised Nettie that she would 'come tomorrow evening with Earsman' but they did not turn up.⁹⁰ The evidence suggests that Christian and Earsman had become a twosome by the beginning of 1918 and their relationship seems to have progressed throughout 1918. During much of 1918 Earsman's wife would have been pregnant then nursing a new baby as their daughter Alisin was born in 1918.⁹¹

On 19 March, the Melbourne *Herald* published an article in its 'Women's World' column about 'Pamela Brown' who was 'the first woman to drive a taxi for hire in Melbourne.'⁹² Nettie noted the article about 'Pamela Brown who is C Jollie Smith' in her diary.⁹³ The *Herald* described Miss Brown as 'a charming girl, tall and slight, who wears orthodox chauffeur's uniform while at the wheel.' She was also 'a good linguist, a musician and for some years had held an important post in business offices in the City'. She had gained her driving qualifications at the City School of Motoring and could do her own running repairs. Bookings from several society leaders had been secured. However, such promising beginnings were not to be sustained. In April, Nettie recorded that 'Christian Pamela Brown flew in in the evening.' Christian was 'having difficulties with the Chauffeurs' Union who consider her an upstart capitalist.'⁹⁴ In May, Christian again dropped in to tell Nettie that

⁸⁹ "Miss Christian Jollie Smith", NAA A6119/90/2852.

⁹⁰ Diary 1917-1918, undated entry, *Palmer papers*, NLA MS 1174/16/3.

⁹¹ *Births, Deaths and Marriages, World War 1 Index*, Victoria.

⁹² "On the Road: Woman Taxi Driver Appears", *The Herald*, 19 March 1918, p

⁹³ Diary 1917-1918, *Palmer papers*, NLA MS 1174/16/3.

⁹⁴ *Ibid.*

Pamela Brown was still under a cloud. Nothing further is known about the outcome of the enterprise but it seems that the Chauffeurs' Union succeeded in thwarting her plans.

In June Christian was staying with Katharine at her cottage in Emerald. She felt like a 'horrid parasite' because Katharine was spoiling her with breakfast in bed and was doing all the cooking. Christian was enjoying the opportunity to do some reading 'because the last six months have been so distracting and busy and jerky that I wondered if ever I'd manage to do any decent work again.'⁹⁵ Christian had agreed to fill in for an absent staff member at Melbourne High School for a few weeks. At that time, Melbourne High School was in Spring Street near the top of Bourke Street,⁹⁶ a short tram ride or brisk walk from Oxford Chambers. The school was then co-educational and Christian was told that she would be teaching English Literature for 26 hours a week to an 'indefinite number of ...intelligent people.' She was therefore 'spending my hours now deep in Wordsworth, Lamb and Thackeray and the Sonnets and the Magazine and the novel.' Christian accepted the job 'for other reasons than my preference.' Evidently she needed to earn some money. She had 'loathed teaching always: there is little to recommend it but the pay.' She was also not sure that she could do a good job even with hours of preparation and wished that she was as familiar with the 'literary jargon' as was Nettie.

The 'harum-scarum daughter of a highly respectable father'

Christian was also reading a great deal of revolutionary literature at this time as can be gleaned from a letter she wrote to Earsman from Emerald on 4 June.⁹⁷ She was 'doing some Russian and Fabian work and Krupothins [?Kropotkin⁹⁸] and Italian and Brady and Boote.' She asked Earsman to bring her some of Boote's pamphlets.⁹⁹ Christian also made an appointment to meet Earsman when she returned to Melbourne perhaps when his wife was

⁹⁵ CJS to Nettie Palmer, n.d [June 1918], *Palmer papers*, NLA MS 1174/1/1733-35.

⁹⁶ Allen Inch, *Honour the Work: A History of Melbourne High School*, Lloyd O'Neill, 1977, pp 5-16.

⁹⁷ Christian Jollie to W Earsman, 4 June 1918, NAA MP95/1 169/9/16 MF 1117.

⁹⁸ The Censor must have had difficulty reading Smith's writing. Kropotkin is my guess. Pyotr Alekseiovich Kropotkin was a Russian Prince who renounced his title after he became an anarchist. He was sent to gaol in 1871-1873 for his opinions and escaped to Switzerland (from which he was expelled in 1881), he then went to France (where he was gaoled from 1883-1886 on a false sedition charge) finally living in England from 1886-1917. He returned to Russia in 1917. (Barry Jones, *Dictionary of World Biography*, The Age/Information Australia, Third Edition 1998, p 428).

⁹⁹ Henry Boote was a Sydney-based Labor propagandist and editor of *The Australian Worker*, the official newspaper of the Australian Workers' Union. Frank Farrell, "Henry Ernest Boote", *ADB*, Vol 7, pp 342-343.

going to be absent. Two weeks earlier Earsman had written a letter to RS Ross in which he had advised that his wife was going to New Zealand in three weeks' time.¹⁰⁰

At the beginning of July, Christian and Katharine helped to organise a farewell function for Vance Palmer who had joined the AIF in March 1918 and was shortly to be sent overseas. According to Nettie, Christian had done most of the correspondence signing herself 'Mr Jollie Smith' and also gave 'a nice little speech.'¹⁰¹ Among the guests were Guido Baracchi, Fred Sinclair, Fred Macartney, Mary Fullerton and Frank Wilmot. Christian apologised on behalf of Katharine who was unable to attend due to illness. Apologies were also received from Bernard O'Dowd, Marie Pitt and Hugh Macrae.¹⁰²

In September Christian wrote to T Hsich at the China-America Import Export Company, 42 Broadway, New York.¹⁰³ Hsich had been a member of the Chinese Consular Service in Australia and Christian was handling his divorce. The letter provides some insight into Christian's plans for the future. She was thinking about moving to New York, apparently encouraged by Hsich, if she could be assured of obtaining a job as a secretary once she arrived there. New York, however, had not been her first preference.

Do you know you are a wonderfully good advocate. I have never been particularly interested in New York, not in the way I would have been in work in Pekin [sic] for instance or Russia...but your extracts and cuttings have made me much more keen.

But she did not have enough money to travel to New York just then. 'As things are, I think I might manage... but not much before Christmas.' She also told Hsich that 'here in Australia the feeling of class war and Industrial Revolution is growing to proportions that forbid its being ignored – and personally if I had to choose sides, it would be that one.' She acknowledges that 'these rabid ideas are not my father's.' The Censor noted that 'she is a seemingly somewhat harum-scarum daughter of a highly respectable father.'

It is not clear what revolutionary activity Christian is referring to here but it seems that she was already in touch with Peter Simonov¹⁰⁴ who would later figure in the establishment of the Communist Party of Australia. A Russian émigré, he had been appointed consul-general

¹⁰⁰ WP Earsman to RS Ross, 21 May 1918, NAA MP95/1 169/9/16 MF1033.

¹⁰¹ Nettie Palmer to Esmonde Higgins, 6 July 1918, *Esmonde Higgins papers*, ML MSS 740, Folder 8.

¹⁰² "Send-off to Vance Palmer", *Socialist*, 12 July 1918, p 1.

¹⁰³ CJS to T Hsich, September 1918, NAA MP95/1 169/43/48 MF 1833.

¹⁰⁴ "Miss Christian Jollie Smith" NAA 6119/90 [2852].

in Australia by the new Russian government in February 1918.¹⁰⁵ At the time of his appointment, Simonov was editor of *Workers' Life* a newspaper of the Russian community in Brisbane.¹⁰⁶ On being appointed Consul-General, he resigned as Editor of *Workers' Life* and moved to Melbourne.¹⁰⁷ Simonov, however, was refused official recognition as Consul-General by Prime Minister Hughes because of his links with the International Workers of the World.¹⁰⁸

In October 1918, the Censor intercepted another letter to Christian from Madame Juliette Grebin who scolded Christian for sending 'scared messages' which could get her (Grebin) into trouble.¹⁰⁹ Madame Grebin remarked that 'the only enemy I have ever had in my life was my own compatriot...His poisonous utterances could mean something only where he was an official representative.' She was 'greatly annoyed that you went to Simonoff [sic].' Madame Grebin said that she loathed Bolshevism and asked Christian not to report her views 'to the Russian colony in Melbourne because they can be very spiteful if anyone does not share their views.' The letter also indicates that Christian was learning Russian.

In December Christian was staying with Nettie 'for odd days and nights.'¹¹⁰ A mother of two young children whose husband was absent, Nettie compared herself unfavourably with Christian.

She does bear well and she seems always so beautiful and charming as well as being my own friend. I like her clothes and the graceful care she takes of herself. She makes me realize that I'm an anyhow old married woman who doesn't bother to make or buy or achieve pretty underclothing and etceteras but I never feel envious or begrudging towards her. Her grace just reminds me that I mustn't be altogether too casual and hideous...Christian's a dear. She understands the kiddies and talks them over with me... I am proud to be her friend in more ways than I could explain.

The next two years, however, would test that friendship. Christian would shortly meet Jock Garden, the secretary of the Labor Council of New South Wales, and make plans to move to Sydney.

¹⁰⁵ Eric Fried, "Peter Simonov", *ADB*, Vol 11, p 608.

¹⁰⁶ Eric Fried, "The First Consul: Peter Simonoff and the Formation of the Australian Communist Party" in John McNair and Thomas Poole (eds) *Russia and the Fifth Continent: Aspects of Russian-Australian Relations*, UQP, 1992, p 112.

¹⁰⁷ *Ibid*, p 114.

¹⁰⁸ Fried, *op cit.*, p 114.

¹⁰⁹ Juliette Grebin to CJS, 1 October 1918, NAA MP 95/1 169/49/55 MF 2307.

¹¹⁰ Nettie Palmer to Vance Palmer, 22 December 1918, *Palmer Papers*, NLA MS 1174/1/1959/60.

In January 1919, an All Australian Trades Union Congress was convened in Melbourne for the purpose of approving the Constitution of the proposed Workers' Industrial Union of Australia (WIUA). The WIUA was to be the 'One Big Union' (OBU)¹¹¹ which would reorganise the union movement, replacing individual unions with six groups which would become branches of the WIUA – building and construction; manufacture and general production; transport and communication; agriculture; land and fisheries; civil services and public utilities; and mining.¹¹² While the concept of a 'union of unions' had been around for a long time, the January congress was to be the culmination of years of talk and planning. The participants at the Congress were imbued with revolutionary enthusiasm and confident of a successful outcome. Among the participants was John Smith ('Jock') Garden.

Born in Scotland, Jock Garden arrived in Australia in 1904 at the age of twenty two.¹¹³ In 1906 he was the Church of Christ minister at Harcourt, just north of Castlemaine and south of Bendigo, in Victoria. Three years later he was a Baptist preacher at Maclean in New South Wales. By 1914, he was in Sydney working intermittently as a sailmaker. He became president of the Sailmakers' Union, then assistant secretary of the Labor Council of NSW. In 1918 he was elected Secretary of the Labor Council. He was said to have a 'ripe Scots burr [which] ranged from beguiling to ranting.' He was a keen supporter of the OBU and was the secretary the OBU Organising and Propaganda Committee. He was also 'a man with a silver tongue, a shrewd head for today's tactics and a poor one for political theory.'¹¹⁴ The *Argus* reported Garden as saying that they 'were out to overthrow the capitalistic class as quickly as possible and that could only be done by revolution.'¹¹⁵ Given her already expressed support for the 'side' of class war and revolution, it seems that Garden's revolutionary attitude, together with his Scottish background and persuasive tongue, convinced Christian to become a disciple.

The atmosphere at the time is summed up by Nettie Palmer who informed her husband, 'The OBU propaganda is really taking hold in Australia and Earsman and people like that who said

¹¹¹ The history of the OBU has been told elsewhere. See, for example, Ian Bedford "The One Big Union, 1918-1923" in Ian Bedford and Ross Curnow, *Initiative and Organisation*, Sydney Studies in Politics No 3, Sydney 1963; Ian Turner, *Industrial Labour and Politics: The Dynamics of Australian Labour in Eastern Australia*, Hale and Iremonger, Sydney, 1979; Miriam Dixon (ed), *Greater than Lenin? Lang and Labour 1916-1932*, A Melbourne Politics Monograph, University of Melbourne, 1977; Mark Hearn and Harry Knowles, *One Big Union: A History of the Australian Workers' Union 1886-1994*, Cambridge University Press, 1996.

¹¹¹ Ian Turner, "Industrial Labour and Politics" (hereafter IL&P) *op cit*, p 182.

¹¹² Miriam Dixon, "Greater than Lenin", *op cit*, p 53.

¹¹³ The details in this paragraph are derived from Bede Nairn, "John Smith Garden", *ADB*, Vol 8, p 614.

¹¹⁴ Miriam Dixon, "Greater than Lenin", in Miriam Dixon (ed), *op cit*, p 57.

¹¹⁵ "One Big Union. Delegates Address Workers" *Argus*, January 17, 1919, p 6.

it was comparatively unimportant seem to be falling in with it now... The *Argus* has decreed that the OBU, IWW and Bolshevism are the three leaves of the poisoned shamrock.¹¹⁶

Christian had also fallen in with it. In March, Nettie told her husband that Christian 'is going to Sydney almost immediately taking an office job under Garden, the OBU man there.'¹¹⁷

She also told her brother that Christian 'has been interested in the more intelligent side of the OBU movement and is going to work for Garden, its chief schemer in Sydney.'¹¹⁸ Nettie was 'glad that she'll be making a move for her own sake.' Nettie perhaps believed that Christian would have a better chance of achieving independence in a distant city far from the oversight of her parents. In the event, her move to Sydney was delayed by quarantine restrictions made necessary by the influenza epidemic.

There is evidence that Bill Earsman had been planning a move to Sydney before the All Australian Trades Union Congress opened on 11 January 1919. The Official Censor intercepted a letter from Earsman to Alex Frew in Sydney, dated 8.1.1919, in which he said that he would be in Sydney by February and asked Frew to look out for a job for him.¹¹⁹ Frew responded to Earsman's letter on 28 January advising him that 'I think you would not be having too much difficulty in securing work in Sydney but as things are just now perhaps you had better 'wait and see''.¹²⁰

While Christian was waiting for the quarantine to be lifted, she worked on a pamphlet about the Japanese labour movement which was published in March 1919. In a letter to Alex Frew, Earsman claimed to be helping Christian with the writing of the pamphlet.¹²¹ Nettie appears not to have been aware of Earsman's help, if indeed it occurred, for she told Vance that 'I've sent you Christian's pamphlet on Japan's labour movement as she gave me some advance copies yesterday. I am proud of her and I think she's going to be a daring pamphleteer.'¹²² In preparing the pamphlet Christian may have had the assistance of her father who had earlier learned Japanese when he was contemplating missionary work among the Japanese in Korea. From 1919-1921 he taught Japanese at the University of Melbourne.¹²³ It is probable that he

¹¹⁶ Nettie Palmer to Vance Palmer, 10 February 1919, *Palmer papers*, NLA MS 1174/1/2053.

¹¹⁷ Nettie Palmer to Vance Palmer, 22.3.19, *Palmer papers*, NLA MS 1174/1/2075.

¹¹⁸ Nettie Palmer to Esmonde Higgins, 16.3.19, *Esmonde Higgins papers*, ML MSS 740, Folder 8, folio 286-287.

¹¹⁹ 'Summary of Communism' Vol 1 June 1922-December 1923, p 32, NAA (Canberra), A6122 File WA 1024A.

¹²⁰ A Frew to WP Earsman, 28.1.19, *Censors Reports*, NAA (Melb) 169/64/73, MF 2543.

¹²¹ 'Summary of Communism, Vol 1 June 1922-December 1923, p 32, NAA A6122 File WA 1024A.

¹²² Nettie Palmer to Vance Palmer, 22.3.19, *Palmer Papers*, NLA MS 1174/1/2082.

¹²³ Ian Breward, "Thomas Jollie Smith", *ADB*, Vol 11, p 664.

had books on Japanese culture and history in his library and, if necessary, he could translate documents for Christian.

The Japanese Labor Movement was published on 6 March 1919. In it Christian attempts to persuade Australian workers ‘that there are fellow-workers in Japan with the same ideals as the workers in Australia.’¹²⁴ The pamphlet goes on to describe the circumstances of Japanese labour before and after 1867. The pamphlet appears to approve of the feudal society which existed in Japan before 1867 in which everyone had their place and the welfare of individuals depended on their clan or family. Christian describes approvingly the pre-1867 guilds which were ‘organisations of workers for their own benefit and for the satisfactory accomplishment of their work.’¹²⁵ The pamphlet’s rosy view of Japanese society before 1867 reflects Christian’s familiarity with ‘guild socialism’. The advocates of guild socialism also looked back to the pre-industrial guild system in which the craft guilds regulated the manufacture of goods, wages and hours of work and protected craftsmen, who were members of their respective guilds, from competition from other workers.

Christian goes on to describe what happened after 1867. Japan became more capitalistic and ‘the signs of modern strife between capital and labor began to appear.’¹²⁶ Japanese workers responded by forming trade unions and began taking industrial action. Such action brought the workers into conflict with employers and government which acted to try to destroy the nascent socialist movement. In 1911, the conflict culminated in the arrest and subsequent execution of twenty four socialists ‘on supposed charges or no charge at all.’¹²⁷ The pamphlet concludes by exhorting the Australian worker to welcome any Japanese workers who ‘happen to be imported into Australia as ‘cheap labor’... into the unions and make their energy part of our struggle.’¹²⁸

The pamphlet’s exhortation to Australian workers to accept ‘cheap’ Japanese labour and assimilate them into Australian unions, reflects the contemporary debate over the White Australia policy. The preservation of the White Australia policy became a key issue at the post-war Peace Conference being held in Paris. At the Conference, the Australian Prime Minister, Billy Hughes, strongly defended Australia’s right to restrict immigration to Australia and opposed a proposal to insert a clause about racial equality, sought by the

¹²⁴ C J Smith, *The Japanese Labor Movement*, Andrade, Melbourne, [1919], p1.

¹²⁵ *Ibid.*, p 4.

¹²⁶ C J Smith, *op cit.*, p 7.

¹²⁷ *Ibid.*, p 11.

¹²⁸ *Ibid.*, p15.

Japanese, in the Covenant for the proposed League of Nations.¹²⁹ Christian's pamphlet was possibly written as a response to this debate. Nettie sent a copy of the pamphlet to her brother, Esmonde, with the comment 'isn't she an impressive old party?' She also told him that as Christian had gained more freedom for herself she had thrown herself into the labour movement. Although Nettie was not seeing very much of Christian since she had moved into Oxford Chambers, 'she's always my greatest friend and could wish for six months mooning with her at any time.'¹³⁰

After the publication of *The Japanese Labor Movement*, Nettie and Christian decided to collaborate on a memorial book to commemorate the life of socialist writer, Leon Villiers, who had died in April 1918 at the age of 44. The book, entitled *The War on the Workers*, was a collection of Villiers' articles that had been published in *Labor Call*. Christian had apparently strongly urged Nettie to undertake the project, overcoming Nettie's doubts.¹³¹ Christian also organised money donations and helped Nettie select articles and with typing.¹³² According to Nettie, Christian did 'most of the work, spacing the pages, planning the order of items and so on.'¹³³ However, Christian was to have no recollection of this project in later life. 'I don't remember doing any book with you "The War on the Workers"', she wrote in August 1962.¹³⁴

Christian was also offered another opportunity to develop her writing career at this time. Again, Nettie takes up the story. 'The other day Stead sent for Christian and asked her if she would write a series of articles, giving the other side of the case.'¹³⁵ The 'case' appears to have been a series of articles in *Stead's Review*, written by Professor Meredith Atkinson of the University of Melbourne, about post-war problems. One article in particular, published on 22 February 1919, examined 'the claims of State Socialism, Syndicalism and Guild Socialism.'¹³⁶ In this article, Atkinson concluded that the 'reconstruction of industry as...advocated by the Guild Socialists had no hope of immediate realisation [because] neither employers or workers are at present fitted to accomplish it.'¹³⁷ Atkinson was the President of

¹²⁹ CMH Clarke, *A History of Australia*, Vol VI, p 122.

¹³⁰ Nettie Palmer to Esmonde Higgins, 16 March 1919, *Esmonde Higgins papers*, ML MSS 740 Folder 8.

¹³¹ Nettie Palmer to Vance Palmer, 1 March 1919, *Palmer papers*, NLA MS 1174/1/2065.

¹³² Nettie Palmer to Esmonde Higgins, 16 March 1919, *Esmonde Higgins papers*, ML MSS 740, Folder 8.

¹³³ Nettie Palmer to Esmonde Higgins, 26 March 1919, *Esmonde Higgins papers*, ML MSS 740, Folder 8.

¹³⁴ CJS to Nettie Palmer, 8.8.62, *Palmer Papers*, NLA MS 1174/1/9710.

¹³⁵ Nettie Palmer to Vance Palmer, 22.3.19, *Palmer papers*, NLA 1174/1/2082.

¹³⁶ Professor Meredith Atkinson, "Post War Problems VII: The Control of Industry" *Stead's Review*, 22/2/19, p162.

¹³⁷ "The New Social Order" *Stead's Review*, July 12, 1919, p 50.

the Workers' Educational Association (WEA) of New South Wales who had recently been appointed as director of tutorial classes at the University of Melbourne.¹³⁸

The WEA originated in England and Australian branches were established from 1914. The Association aimed to bring together the university and the workers with the object of transforming workers into enlightened citizens who would shun class war in favour of cooperation.¹³⁹ It was thus a rival organisation of the Victorian Labor College with an antithetical philosophy. This was apparently the reason for the approach to Christian for, as Nettie explained, an article written by her would have more credibility.

Her name would be more useful than Earsman's, for instance, as he would seem to bear a grudge against Atkinson specifically (Labour College versus WEA). Christian's connection with the Labour College is so purely voluntary and unofficial that it's no harm. She's probably going to do two articles on Syndicalism or on national Guilds but it won't be immediately.¹⁴⁰

In the event, there is no evidence that these articles were ever published or, indeed, if they were ever written for, in early April, the quarantine restrictions were lifted enabling Christian to travel to Sydney. However, her departure was again delayed because 'she took a job in a lawyer's office to oblige a friend who wants to go home to the country for three weeks.'¹⁴¹ After completing this job, Christian finally departed for Sydney. On 13 May, Nettie reported to Vance that she was 'correcting Villiers proofs now that Christian has gone to Sydney.'¹⁴²

To a new life in Sydney

The evidence suggests that Earsman preceded Christian to Sydney. The Minutes of the Board of Management of the Victorian Labor College record that Earsman requested, and was granted, leave of absence on 10 March 1919.¹⁴³ The quarantine restrictions would have delayed his departure but on 28 April the Minutes of the Board of Management record a letter from Earsman in Sydney, in which he discussed prospects for a Labor College there. This suggests that Earsman moved to Sydney some time in mid-April when Christian was standing

¹³⁸ Warren Osmond, "Meredith Atkinson", *ADB*, Vol 7, p 121.

¹³⁹ Helen Bourke, "Social Scientists as Intellectuals: From the First World War to the Depression", in Brian Head and James Walter (eds), *Intellectual Movements and Australian Society*, Oxford University Press, Melbourne, 1988, pp 51-52.

¹⁴⁰ Nettie Palmer to Vance Palmer, 22.3.19, *Palmer papers*, NLA 1174/1/2082.

¹⁴¹ Nettie Palmer to Vance Palmer, 5 April 1919, *Palmer papers*, NLA MS 1174/1/2100.

¹⁴² Nettie Palmer to Vance Palmer, 13 May 1919, *Palmer papers*, NLA MS 1174/1/2152.

¹⁴³ Victorian Labour College, Minutes of the Board of Management, *AT Brodney papers*, SLV MS 10882, Box 12.

in for her friend. However, by June Earsman and Christian were established in Sydney. They were living at Eric Flats, 43 Philip Street.¹⁴⁴ The building is still there in a group of buildings behind the Museum of Sydney which has been preserved. Today they are overshadowed by office skyscrapers but it is possible to catch a glimpse of the Harbour at the end of the street.

On 10 June, Lesbia Keogh, then living in Sydney, wrote to Percy Laidler in Melbourne, telling him that she had visited Christian and Earsman.

I had tea with Christian Smith and Billy Earsman last night. These two seem to be very important people over here now and are in with all the Trades Hall heads but they make rather amusing mistakes as to who are, and who are not, IWW people. I don't say anything.¹⁴⁵

Lesbia Keogh was born in 1891 in Melbourne. After being educated at Catholic schools in Melbourne and Ballarat, she enrolled in law at the University of Melbourne in 1912 graduating in 1916. However, she never practised as a lawyer choosing instead to work in a clothing factory, joining the Industrial Workers of the World (IWW). She moved to Sydney where she worked in a clothing factory and lived with friends who were members of the IWW. In 1920 she was to marry the artist Patrick Harford and moved back to Melbourne.¹⁴⁶ She died in 1927 from heart disease. Lesbia would have met Christian and Earsman through the Reverend Frederick Sinclair's Free Religious Fellowship, for which she had conducted services in 1915. Her close association with the IWW would explain her amusement at those political parvenus, Christian Jollie Christian and William Earsman.

The 'office job under Garden' had failed to materialise. While the job offer may well have been another example of Garden's 'silver tongue', there was probably another reason it did not eventuate. While the Melbourne Congress was successful in achieving its objective of formally adopting the preamble and rules of the new union, the OBU movement lost impetus once the congress was over and the participants dispersed. The proposed WIUA came under attack from 'socialists and syndicalists on the left, and...the [Labor] politicians, craft unions and the AWU[Australian Workers' Union] on the right.'¹⁴⁷

As was the case when she was ruminating over the possibility of moving to New York, a key factor in Christian's decision to move to Sydney would have been the offer of a job. When

¹⁴⁴ CJS to Percy Laidler, 21 June 1919, NAA MP 95/1 169/74/90 MF 2849.

¹⁴⁵ Lesbia V Keogh to Percy Laidler, 10.6.19, NAA MP 95/1 169/74/90, MF 2835.

¹⁴⁶ Lesley Lamb, "Lesbia Venner Harford", *ADB*, Vol 9, pp195-196.

¹⁴⁷ Ian Turner, "IL&P", *op cit*, pp 185-186.

the job with Jock Garden fell through Christian was fortunate to find alternative employment which Nettie reported to her husband in October.

Christian ran across from Sydney the week before last. She has been working very hard there helping to organise the Labour College and lecturing several nights in a week and clerking at the Seaman's Union by day. She says she is contented which is a lot from her.¹⁴⁸

Nettie seems to have harboured some reservations about Christian's declaration of contentment. 'I've always wished though that someday she'd have some positive happiness to grasp – just a whiff of what I've had for so long,' she wrote. Christian, however, would never achieve the kind of traditional relationship, with husband and children, as Nettie had.

Acting on Earsman's advocacy, on 19 June 1919 a general meeting of the Labor Council of New South Wales adopted a motion to 'take immediate steps to form a Labor College.'¹⁴⁹ At the next meeting of the Labor Council Executive held on 26 June 1919, it was agreed that a circular be sent to all unions to promote the College to potential students. It was also agreed 'that a lantern lecture be held in [the] Social Hall on Sunday evening July 6 at 8 pm'. The subject of the Lecture was 'Russia before the Revolution' by Miss Smith LLB.¹⁵⁰ Earsman was appointed Acting Secretary of the College and it was soon open for business in rooms at the Trades Hall in Goulburn Street.¹⁵¹ In July, the Official Censor intercepted a letter from Earsman to Percy Laidler in Melbourne in which Earsman advised Laidler that 'we have at last started and I am dropping you a line re books.' Earsman was to lecture in History and Strategy while 'Miss Smith is doing literature and grammar.'¹⁵² Despite her expressed feelings about teaching, there is evidence to suggest that Christian was a successful teacher at the Labor College. In July 1919, the Censor intercepted correspondence which referred to her as being 'a most capable lecturer and teacher.'¹⁵³

Christian's job with the Seamen's Union was apparently only a temporary one. In an undated letter to Nettie, Christian comments 'Thank the good God. I think this day job of mine is

¹⁴⁸ Nettie Palmer to Vance Palmer, 7 October 1919, *Palmer papers*, NLA MS 1174/1/2244.

¹⁴⁹ Labor Council of New South Wales, Minutes of General Meetings, 14 May 1919, 19 June 1919, ML MSS A3842 FM 1126, 1131.

¹⁵⁰ Labour Council of New South Wales, Minutes of Executive Meetings, June 26 1919, ML MSS A3842 FM4/1126.

¹⁵¹ Address advertised on the back of the pamphlet WP Earsman, *The Proletariat and Education*, Andrade's Melbourne, nd [1920].

¹⁵² WP Earsman to P Laidler, 2.7.19, NAA MP 95/1 169/79/70, MF2861.

¹⁵³ Quoted in Ann Turner, "Independent Working Class Education in Australia 1917- 1929", M.Ed Thesis, University of Melbourne, 1981, p 153.

coming to an end.’¹⁵⁴ The Secretary of the NSW Branch of the Seamen’s Union was Tom Walsh, the husband of her friend Adela Pankhurst. The Walshes had moved from Melbourne to Sydney in 1918, after Tom had secured the position of Secretary of the Seamen’s Union. Adela was also involved in the union, editing the *Seaman’s Journal*.¹⁵⁵ Christian was doing clerical work, perhaps typing letters and assisting Adela.

While she was in Melbourne in October 1919, Christian had spent almost a whole weekend with Guido Baracchi which Nettie seems to have assumed suggested a developing relationship. ‘Christian told me,’ Guido wrote, ‘you had asked if she liked me and that she had been very non-committal.’ Guido seems to have felt the need to set the record straight and explained what had happened. On the Saturday afternoon they had travelled to Mitcham, east of Melbourne (now part of the urban sprawl but then out in the bush) ‘spending the afternoon in the sun and the rain... and walked part of the way back to Melbourne and trained the rest.’ They then ‘talked the whole night until 5.30 am.’ In the morning they went for a walk in the Fitzroy Gardens and then to the docks. ‘At ten we came back here and parted... That is the story.’¹⁵⁶ Whether that is the whole story is impossible to say but it appears unlikely that there was anything more. Baracchi’s biographer, Jeff Sparrow, describes several of Baracchi’s affairs but he does not suggest that Guido and Christian became lovers.¹⁵⁷ Indeed, there is no evidence, other than Guido’s letter to Nettie, to support any conclusion that they did.

The New South Wales Labour College continued to operate successfully during 1920 ‘with classes in the same subjects and with the same tutors as in 1919.’¹⁵⁸ However, by the end of the year many of its key supporters were to be involved in a new venture – the establishment of the Communist Party of Australia - and withdrew their support from the Labor College resulting in its eventual closure.¹⁵⁹

¹⁵⁴ CJS to Nettie Palmer n.d. [August 1919?], *Palmer papers*, NLA 1174/1/10250. This letter is filed at the end of the series but internal evidence suggests that it was written in August 1919 as Christian refers to not being able to get chocolates from NZ for Nettie’s birthday (in August) because of “the strike” (there was a Seamen’s strike in 1919).

¹⁵⁵ Verna Coleman, *op. cit.*, p 84.

¹⁵⁶ Guido Baracchi to Nettie Palmer, 25.10.19, *Palmer papers*, NLA MS 1174/1/2250.

¹⁵⁷ Sparrow, *op. cit.*, Ch 4.

¹⁵⁸ Ann Turner, “Independent Working Class Education in Australia 1917- 1929”, M.Ed Thesis, University of Melbourne, 1981, p 157.

¹⁵⁹ *Ibid.*, p 167.

The Communist Party of Australia is formed¹⁶⁰

A key figure in the pre-history of the founding of a Communist Party in Australia was Peter Simonov whom Christian had met sometime in 1918. Initially, Simonov supported the objectives of the OBU as a means of ‘boring from within’,¹⁶¹ but after the failure of the OBU supporters to persuade the June 1919 NSW Labor Party Conference to adopt the socialisation objective, he turned his attention to the formation of a revolutionary party which resulted in the establishment of the Communist Party of Australia. Some of those involved in the attempt to establish the OBU, including Jock Garden, would also play a part in the formation of the Communist Party of Australia.

In late 1919, the Australian Socialist Party (ASP) declared its allegiance to the Communist Third International. The ASP was a Sydney-based Marxist group which had little connection with the unions or the Labor Party. It saw the Russian Revolution as the realisation of its own view that parliamentary democracy must be overthrown and replaced with industrial democracy. However, its declaration of allegiance to the Third International was not sufficient to establish the ASP as the accepted Australian branch of the Third International. In July 1920, Simonov rejected the ASP’s claim to be the Australian Branch of the Third International on the ground that the ASP was not a revolutionary organisation.

The next move towards the establishment of the Communist Party apparently occurred sometime during the spring of 1920 when Bill Earsman, Christian Jollie Smith and Peter Simonov secretly formed a ‘communist party’ and drafted a manifesto which was circulated together with a call for membership. Jock Garden also joined this group. The initiative then passed to the ASP which, anxious not to be out-manoeuvred by the ‘secret’ party, adopted its manifesto and debated whether to rename itself as the Communist Party. Instead of acting unilaterally, the ASP executive decided to call a conference, inviting Garden and his

¹⁶⁰ The history of the founding of the Communist Party of Australia has been told elsewhere. See: PJ O’Farrell, “The Russian Revolution and the Labour Movements of Australia and New Zealand”, *International Review of Social History*, Vol 8, 1963, pp177-197; Alistair Davidson, *The Communist Party of Australia: A Short History*, Hoover Institution Press, Stanford, California, 1969; Robin Gollan, *Revolutionaries and Reformists: Communism and the Australian Labour Movement 1920-1950*, George Allen and Unwin, Sydney, 1975; Ian Turner, *Industrial Labour and Politics: the Dynamics of the Labour Movement in Eastern Australia, 1900-1921*, Hale and Iremonger, Sydney, 1979; Miriam Dixon, “The First Communist ‘United Front’ in Australia”, *Labour History*, No 10, May 1966, pp 20-31; Frank Farrell, *International Socialism and the Australian Labour Movement: The Left in Australia*, Hale and Iremonger, Sydney, 1981; Eric Fried, “The First Consul: Peter Simonoff and the Formation of the Australian Communist Party” in John McNair and Thomas Poole (eds) *Russia and the Fifth Continent: Aspects of Russian-Australian Relations*, UQP, 1992, pp 110-125; and Stuart Macintyre, *The Reds: The Communist Party of Australia from Origins to Illegality*, Allen and Unwin, 1998.

¹⁶¹ Fried, “The First Consul”, *op cit*, p 118.

supporters, the so-called Trades Hall Reds, to join them in forming a communist party. In calling for a conference, the ASP may have been motivated by the expectation that it would take the leading role. If so, they were to be dreadfully mistaken.

The Conference was set for 30 October 1920. It was Garden who decided who should be invited to the conference and sixty invitations were issued. Twenty-six persons accepted including Christian. Among the others who accepted were several people well known to Christian, including Jock Garden, Adela Pankhurst Walsh and Tom Walsh and, of course, Bill Earsman. Guido Barrachi also travelled up from Melbourne with Carl Baker. Although it is not certain, it appears that Christian met Baker for the first time at this conference.

Clarence Wilbur (known as Carl) Baker had a very colourful history. Born in Ohio, USA, in July 1888 he arrived in Australia in 1907.¹⁶² Nothing is known of Baker's activities before he enlisted in the Australian Imperial Forces on 10 July 1915, claiming he was born in Sydney.¹⁶³ Two weeks after he joined he married Edith Lucas at the Registry office in Carlton, an inner suburb of Melbourne.¹⁶⁴ He was 27 at the time he joined up making him three years younger than Christian. His early career in the army was meteoric. He was promoted to the rank of Corporal before embarkation for Egypt in November 1915. Two weeks after joining his unit (59th Battalion) in Egypt he was appointed to the substantive rank of Sergeant. A further two months later he transferred to the Fifth Pioneer Battalion and two weeks after this was promoted to Warrant Officer Rank Class II. The author of the report noted that 'this, of course, was at a time when non-commissioned rank on non-technical units was easy to obtain for men of good physical appearance.' He was six feet three inches (187 centimetres) tall and, on enlistment, weighed twelve stone (76 kilograms). In June 1916, he arrived in Marseilles with his unit.

In France, however, Baker seems to have had a change of heart. Three months after rejoining his battalion, he was transferred to a training battalion in England. Five months later, he was

¹⁶² Clarence Wilbur Baker, NAA A6126/27/1143. It is stated on this file that he was born in London, England, but there is no relevant British birth record. There is, however, a place named London in Ohio, USA. His parents names were obtained from his marriage certificates and they, together with Clarence, are recorded in the 1900 US census returns for Ohio. When he joined the AIF he said he was born in Sydney but there is no birth record in the NSW Registry of Births, Deaths and Marriages online database. He died in Sydney in 1967 (NSW Registry of Births, Deaths and Marriages online database).

¹⁶³ "Baker, Clarence Wilbur -5th Pioneer Battalion AIF", NAA A402 (A402/3) File W294. The following account is derived the contents of this file.

¹⁶⁴ Record of marriage, Registrar of Births, Deaths and Marriages, Victoria.

back with his unit, reverting to the rank of private at his own request. In explaining his request, Baker said that before the war he was an International Socialist and a pacifist, but that at the outbreak of war his opinions changed and he enlisted. However, after two years in the army he felt that he had acted too hastily. During his sojourn in England he had been 'in close touch with men who have held and are still holding my old creed' and, on finding that his former beliefs were still strong, he decided that he 'must again take my stand with the socialist and the pacifist.' Baker's commanding officer forwarded Baker's request to AIF Headquarters in London with the recommendation that his request should be granted but that, 'in view of his socialist and pacifist views', he should be returned to Australia after reversion. Headquarters was suspicious, thinking it was 'possible that this man may have adopted this course as a means of securing his discharge.' Baker was told that his application to revert to the ranks was approved but he was 'warned that whatever his own personal opinions might be, as he voluntarily accepted certain obligations,...he is to understand that he is not free to suborn other men' or he would be court-martialled.

Baker apparently became determined to get out of the war. On 7 October 1917, he faced a court-martial on a charge of 'stealing a purse containing money from a prisoner of war' but was acquitted because there was no evidence that he had committed the offence. On 19 October 1917, he was hospitalised with neurasthenia. After rejoining his unit, he was given two weeks leave and on 9 November he went to England. Two days before his leave was due to expire, Baker was arrested by the Royal Irish Constabulary in Belfast. He gave a false name but could not produce any papers to prove this identity. When he admitted his true identity, he was arrested as a deserter and court-martialled in London on 3 December, 1917. If Baker had hoped that desertion would secure his discharge he was again to be disappointed. Sentenced to 112 days detention, he served only part of it before being released and, at the end of February 1918, was sent back to his unit in France. Two weeks after his return to France he was sent back to England as an undesirable. His commanding officer reported that Baker was likely to be a source of disaffection among the troops and asked 'that he either be returned to Australia or sent on some work where his influence would not be so felt.' This time Baker was successful. On 3 March 1918, his return to Australia was approved and he left England on 5 April. He was discharged from the AIF on 30 May 1918.

In 1920, Baker had been involved in an attempt to convert the Victorian Socialist Party into a Communist Party. Simonov had wanted to use an existing party with an established power base and regarded the VSP as ideal for the purpose. Simonov's supporters infiltrated the VSP

and captured control of the Collingwood branch which they used as their base, actively recruiting their followers to the membership. Carl Baker was one who was recruited at this time and was elected to the VSP executive. However, by September the attempt to take over the VSP had failed. The VSP succeeded in defeating the takeover by winning a vote of members on the key issue of whether the VSP should adopt revolutionary tactics and reject parliamentary action or retain its existing policy of political and industrial action. Simonov then turned his attention elsewhere.

At the October 1920 Conference in Sydney, Earsman was elected to the position of provisional Secretary of the Communist Party of Australia, defeating the ASP nominee for the position. Christian was elected one of the twelve members of the provisional Executive. Tom and Adela Pankhurst Walsh and Carl Baker were also elected to the Executive.¹⁶⁵ The first meeting of the provisional Executive was held the following day for the purpose of drafting the manifesto and principles for the party. All members of the provisional Executive were present.¹⁶⁶ The meeting resolved that a drafting committee be formed and Christian was appointed to this Committee.¹⁶⁷ The drafting Committee met next day, 1 November, and the draft manifesto was submitted to the party members in a conference held on 6 November 1920. Almost all of the draft manifesto was unanimously accepted but Clause 8 caused some difficulty and was returned for redrafting.¹⁶⁸ The extent to which Christian was responsible for the drafting is unknown, but it seems likely that her legal skills would have been of great benefit to the Committee in its deliberations. Amendments to the draft held in the Communist Party papers are in her handwriting.

Christian assiduously attended provisional Executive meetings being present at all seven meetings held up until 22 December 1920.¹⁶⁹ She also played an active role in other activities organised by the fledgling party. On 23 November, the provisional Executive decided to hold an open air meeting in the Domain on the following Sunday as well as a musical entertainment in the evening.¹⁷⁰ Christian and Bob Brodney, who was an ASP representative

¹⁶⁵ Minutes of Conference 30 October 1920, *Hancock papers*, ML MSS 772/8 (Reel CY203, Frame 8).

¹⁶⁶ Minutes of the Central Executive meeting, October 31 1920, *Communist Party of Australia (hereafter CPA) Papers*, ML MSS 5021, Box 82.

¹⁶⁷ *Ibid.*

¹⁶⁸ Minutes of Conference, November 6 1920, *Hancock papers*, ML MSS 772/8 (Reel CY203, Frame 9).

¹⁶⁹ Minutes of Central Executive Meetings, 31 October; 23 and 29 November, 6, 11, 13 and 22 December, *CPA papers*, ML MSS 5021, Box 82.

¹⁷⁰ Minutes of the provisional Executive of the Communist Party of Australia, 23 November and 29 November 1920, *Hancock papers*, ML MSS 772/8 (Reel CY203 Frames 10-11).

on the executive, were given responsibility for arranging the musical programme which took the form of a lecture by Bob accompanied by Christian on the piano. There were collections taken during both the Domain meeting and the musical evening raising much needed funds of £3.12.1 and £3.16.3 respectively.¹⁷¹ At the 29 November meeting of the provisional Executive it was 'agreed that Miss Smith and Comrade Glynn prepare a statement for the columns of the *International Socialist* on behalf of the CE of the Communist Party.'¹⁷² The statement set out the reasons for the establishment of an Australian Branch of the Communist Party. On 13 December, the provisional Executive also decided to establish a literature committee and Christian was appointed one of its three members.¹⁷³

At this point the ASP members of the Committee withdrew their support and the CPA split into two rival organisations both claiming to be the Communist Party of Australia.¹⁷⁴ To distinguish between them they were often referred to as the 'Sussex Street' (CPA) and 'Liverpool Street' (ASP) Parties. The split continued until mid-1922, despite several attempts by the Sussex Street Party to achieve unity, when the Liverpool Street party itself split with some members joining the Sussex Street party.¹⁷⁵

¹⁷¹ Minutes of the Central Executive of the Communist Party of Australia, 6 December 1920, *CPA papers*, ML MSS 5021, Box 82.

¹⁷² Minutes of the Central Executive of the Communist Party of Australia, 29 November 1920, *CPA papers*, ML MSS 5021, Box 82.

¹⁷³ Minutes of the provisional Executive, 13 December 1920, *Hancock papers*, ML MSS 772/8 (Reel CY203, Frame 31)

¹⁷⁴ *Ibid.*

¹⁷⁵ Dixon, 'The First United Front', *op cit.*, p 24-25.

Chapter 4: Not just the piano player – 1921-1929

‘Servant of the rebel proletariat’

In early 1921 Christian was in Melbourne helping with the establishment of the Victorian Branch of the Party. Before she left for Melbourne, she appears to have moved to a new address - 28 College Street, Sydney.¹ College Street runs along the eastern side of Hyde Park and number 28 would have been near the intersection with Liverpool Street on a site now occupied by two international hotels. Her new address would have been a short walk along Liverpool Street to Sussex Street and the CPA headquarters.

After Guido Baracchi and Carl Baker returned to Melbourne they had set about establishing a Melbourne branch of the Communist Party.² One of those who answered the call was Percy Laidler who chaired the inaugural meeting of the Melbourne Branch. Laidler was well-known in Melbourne. After several years organising the miners at Broken Hill, he became the manager of Andrade’s Bookshop at 201 Bourke Street, Melbourne. Established in 1898, Andrade’s specialised in radical literature. On 12 February members of the Provisional Executive in Sydney discussed the position of the Victorian Branch. They decided that ‘that Secretary [Earsman] write [to] Miss Smith and Comrade Baker pointing out the position and instructing them it was impossible to recognise this Branch for Easter Conference until the Constitution is complied with.’³ On 26 February 1921, the Provisional Executive noted a letter from Miss Smith reporting on the situation in Melbourne and complaining that Jock Garden and Tom Walsh had not visited the branch when they were in Melbourne.⁴ By 9 March, Christian had returned to Sydney, as she is recorded as being present at the executive meeting held on that day.⁵ The Melbourne branch of the CPA proved to be short-lived.

While in Melbourne, Christian visited Nettie, who was again living at Emerald. Nettie recorded the visit in her diary, noting the topics of their discussion. ‘Yarns, various, personal, about Lesbia Keogh...ideas communism, especially the Australian Communist Party and its paper which CJ runs in Sydney. Can’t quite see her drift but she says she’s the servant of the rebel proletariat and will do its works.’⁶ The ‘paper which CJ runs in Sydney’ was *The*

¹ Commonwealth Investigation Branch, Summaries of Communism, NAA A8911/154 Part 1.

² Miscellaneous Correspondence 1920-1926, *CPA Papers*, ML MSS 5021, Box 4.

³ Minutes of Central Executive Meetings, 12 February 1921, *CPA Papers*, ML MSS 5021, Box 82.

⁴ Minutes of Central Executive Meeting, 26 February 1921, *CPA Papers*, ML MSS 5021, Box 82.

⁵ Minutes of Central Executive Meeting, 9 March 1921, *CPA Papers*, ML MSS 5021, Box 82.

⁶ Diary, 1921, *Palmer Papers*, NLA MS 1174/16/4.

Australian Communist. The editor of the paper was listed as Tom Glynn but the paper was 'published by Miss C J Smith, College Street Sydney, for the Communist Party of Australia.' Christian's name remains as publisher until the edition of 19 August 1921 when Jock Garden is listed as the publisher. However, none of the articles printed in the paper during this time carry Christian's byline or even initials. The first article with Christian's name attached was not published until August 1922.

Nettie appears not to have been impressed by Christian's new found interest. She expounded her views in a letter to her brother, Esmonde Higgins, then in England.

Christian has been helping to organise a Communist Party there (and here)...I don't quite follow her because I think she has consented too readily to be the instrument of whatever certain bookish members of the "Rebel Movement" say is the next plan.⁷

Christian's active involvement in the administration of the Communist Party continued after her return from Melbourne. She was assiduous in her attendance at meetings and her responsibilities increased. At the provisional Executive meeting on 9 March 1921, the editor of the party newspaper, Tom Glynn, resigned. The Executive decided to appoint a Board of Editors and Christian was appointed to the Board together with Garden and Earsman⁸. At the meeting of the provisional executive held on 12 March, Christian was appointed to the Committee that had responsibility for organising meetings in the Domain.⁹ On 15 March, Christian would have turned thirty-six but there is no evidence to indicate whether or not she celebrated her birthday in any way. Perhaps she was too busy teaching English at the Labor College¹⁰ and working for the CPA. On 22 March, the Minutes of the Executive meeting recorded that 'Christian had been looking around for another room for the HQ.'¹¹ At the First Annual Conference of the Communist Party of Australia, held on 26 March 1921, Christian was re-elected to the Central Executive and Earsman was re-elected Secretary.¹² Christian was also appointed to a sub-committee formed to consider alterations to the Constitution of the Communist Party.¹³ It was at this Conference that Carl Baker was appointed to the

⁷ Nettie Palmer to Esmonde Higgins, 19 March 1921, *Esmonde Higgins Papers*, ML MSS 740, Vol 9.

⁸ Minutes of Central Executive Meeting, 9 March 1921, *CPA Papers*, ML MSS 5021, Box 82.

⁹ Minutes of Central Executive Meeting, 12 March 1921, *CPA Papers*, ML MSS 5021, Box 82.

¹⁰ Nettie Palmer to Esmonde Higgins, 19 March 1921, *Esmonde Higgins Papers*, ML MSS 740, Vol 9.

¹¹ Minutes of the Central Executive, 22 March 1921, *CPA Papers*, ML MSS 5021 Box 82.

¹² Minutes of the First Annual Conference of the Communist Party of Australia, March 26 1921, *CPA Papers*, ML MSS 5021 Box 82.

¹³ Minutes of the First Annual Conference of the Communist Party of Australia, March 26 1921, *Hancock Papers*, ML MSS 772/8 (CY Reel 203, Frame 37).

position of paid editor of *The Communist* ¹⁴ and from 1 April 1921 Carl Baker appears on the paper's masthead as the editor.

On 1 April, the new Central Executive met for the first time. Bill Earsman was endorsed as one of the delegates to the Congress of the Communist Third International to be held in Moscow. In Earsman's absence Carl Baker was appointed Acting General Secretary and Christian was appointed Assistant Secretary.¹⁵ Earsman left Sydney by boat on 2 April 1921 as a member of the crew. Approaching Fremantle on 11 April he recorded that he was looking forward to visiting Katharine Throssell,¹⁶ that is Katharine Susannah Prichard, who had moved to Perth from Melbourne after her marriage to Hugo Throssell in January 1919. Katharine met Earsman on his arrival at Fremantle on 12 April and he spent the night at the Throssells' home, Greenmont. He clearly appreciated the opportunity to talk to Katharine, reminiscing about the past, and apparently also to talk about Christian. The next day he wrote to his parents and Christian before catching the train back to Perth.

Christian was much on his mind throughout the long journey to London and his diary reveals his feelings about their separation. On 16 April, the day after the ship left Perth, he sat on the deck and tried to pretend that he was sitting on the beach with Christian. Earsman's anguish at parting from Christian increased as the ship travelled further westwards. Earsman wrote to Christian almost daily even though there was no opportunity to post any letters until the ship reached Durban. He also wrote regular letters to his wife not appearing to feel any compunction towards her over his feelings for Christian. On 14 May, after the ship had called at Durban, Earsman again mulled over his relationship with Christian and whether there was any future in it. By now he had been away for seven weeks and was concerned that Christian might be forgetting him. On the long journey to London Earsman passed the time thinking about Christian, writing his thoughts in his diary and writing letters to her. He also looked forward to the day of his return to Australia and their reunion. Letters from Christian had awaited him in London and he spent time responding to them. His second diary is less introspective about his relationship with Christian, mostly recording his experiences on the journey to Moscow and the events surrounding the Congress of the Third International of the Communist Party. However, he records writing regular letters to 'Xian'.

¹⁴ *Ibid.*

¹⁵ Minutes of the Central Executive, 1 April 1921, *CPA Papers*, ML MSS 5021 Box 82.

¹⁶ Diary entitled "A trip from Sydney to London as seaman", *WP Earsman Papers*, University of Edinburgh MSS GEN 1949. The following description is based on the contents of the diary.

‘These people don’t take a woman seriously’

Following receipt of a cable from Earsman indicating that he had arrived safely in Russia, Christian wrote a long letter to Earsman, bringing him up to date with what was happening in Sydney, which was intercepted by the British security authorities. She expressed delight at his safe arrival and reported that ‘everyone is very pleased to hear that you have got that far’ and ‘that everything here is well [and] the Party has not so far evaporated.’¹⁷ However, Christian was irked by the fact that ‘these people don’t take a woman seriously and I haven’t bothered to make them.’ She would not be the last female member of the Communist Party to make that complaint. As Oriel Grey remarked in her memoir *Exit Left* about the position of women in the party after the Second World War ‘it was easier for a camel to pass through the eye of the needle than it was for a communist woman theoretician to get out of the typing pool.’¹⁸ At the time Christian was writing to Earsman she was typing the letter in one room while in other rooms one group of men were discussing the party’s relations with the ALP, another group of men were holding a meeting on free speech, and about six others were talking around the counter.

Christian also informed Earsman that the circulation of *The Communist* was improving, which she attributed to Baker’s editorship. ‘There is no doubt that Baker is a thoroughly good editor and the paper is getting known every where for its good and sound theory...I feel rather pleased because I sort of discovered his ability.’ This is perhaps an early indication of the developing personal relationship between Christian and Baker. However, she later told Esmonde Higgins that the paper had been criticised for being ‘too theoretical and not enough of a propaganda sheet.’ She revealed her attitude to the working class when she wrote ‘the Australian wage plug whether communist or not doesn’t like theory. He likes lots of tuppenny ha’penny facks [sic] about his petty reformism.’¹⁹

The year 1921 appears to have been a very stressful one for Christian ending with her being hospitalised with a serious illness. In a letter written in 1922 to Esmonde Higgins, then working in the Research Department of the Communist Party of Great Britain, she described her activities in 1921. Apologising for not writing to him, she explained the reason.

¹⁷ CJS to WP Earsman, 8 July 1921, NAA A981 COM 10.

¹⁸ Oriel Grey, *Exit Left*, Penguin Australia, 1985, pp 191-192.

¹⁹ CJS to Esmonde Higgins, 2.5.22, *Esmonde Higgins Papers*, ML MSS 740 Vol 11, ff169-170.

Last year as it happened, I did not write a letter to a soul. I had all the correspondence of the party which amounted to some thirty or forty letters per week and I had to write an official letter full and thick to Earsman every week and simply didn't have the energy to write to anyone after that was done. Then at the finish I got pleurisy.²⁰

She spent seven weeks in hospital. Her illness was serious enough for her mother to travel to Sydney 'and there was a general fuss.' Christian was persuaded to return to Melbourne where she convalesced at her parents' home. She was still living with her parents in February 1922 and may have still been there in April 1922 when she was reported as receiving Communist literature from Moscow at her parents' address.²¹

If her mother had any ideas that Christian might return home for good she was to be disappointed. By May 1922, she was back in Sydney, living temporarily with Adela and Tom Walsh, 'till I got a suitable job. I can't take anything very substantial for a year or two till my innards straighten out and become normal'.²² The Walsh household was not 'wildly revolutionary' because of the amount of domestic work involved with a young family. Adela's third child, a daughter, was born in 1922 and named Christian in honour of her friend.²³ Their friendship, however, would wither away after the Walshes moved back to Melbourne and Adela moved politically to the right.

Esmonde Higgins had been sending articles to his sister, Nettie Palmer, who forwarded them to Christian for publication in *The Communist*. Esmonde apparently complained that his articles had not been used. Christian defended herself with asperity.

Nettie says in a letter received from her that your articles have not been used. That is not accurate. They have all been used and with much thanks - all except the last two, I believe. One of those I found is at present at the printers for this week's issue. The other owing to the rag being held over and only coming out once a fortnight for the last few months has been held over with a lot of other stuff.²⁴

The fact that *The Communist* had not been appearing regularly may have been the result of her extended absence from the Party's office in late 1921 and early 1922. During Christian's illness, Carl Baker had had little administrative support in the office. Responding to criticism

²⁰ CJS to Esmonde Higgins, 2.5.22, *Esmonde Higgins Papers*, ML MSS 740 Vol 11 ff169-170.

²¹ "Memorandum for Secretary Prime Minister's Department from Australia House, London" 29 April 1922, NAA, A981 COM 10.

²² CJS to Esmonde Higgins, 2.5.22, *Esmonde Higgins Papers*, ML MSS 740 Vol 11 ff169-170.

²³ Coleman, *op cit.*, p 93.

²⁴ CJS to Esmonde Higgins, 2.5.22, *Esmonde Higgins Papers*, ML MSS 740 Vol 11 ff169-170.

in his report to the CPA Annual Congress in December 1921, he pointed out that 'the members doing active work, Comrades Miss Smith and Ross, had gone to hospital with serious illness and their places had not been filled.'²⁵ In the elections for the new Executive, Earsman was re-elected Secretary and Baker was asked to continue as editor.²⁶ Because of her illness, Christian told Esmonde Higgins that she 'was hopelessly out of the movement over there'²⁷ and did not renominate for the Executive.

Off with the old and on with the new man

Earsman's long absence from Australia, together with her illness and long convalescence, seems to have weakened Christian's feelings for him. It has been suggested that Christian was deserted by Earsman.²⁸ However, the evidence suggests a different conclusion - that it was Christian's actions which ended the relationship. When Earsman returned to Australia in December 1921 Christian had been ill for some weeks and was convalescing at home in Melbourne perhaps remaining there until around April 1922. There would have been little opportunity for them to meet before Earsman left Sydney again by the 'Hobson's Bay' on 29 April 1922. Writing from Sydney on 2 May, Christian remarked that 'I don't know how long he will stay away this time.' Then she warned Esmonde 'Don't hand any letter I may write to you - this one for instance - to Earsman. It is written to you not to anyone else.'

Official interest in Earsman's travel plans led to a somewhat farcical series of events involving Christian as Earsman sailed on the 'Hobson's Bay' from Melbourne to Perth. Officers at the Commonwealth Investigation Branch headquarters in Melbourne suspected that Christian would accompany Earsman basing their belief on the contents of Earsman's diaries which had been among papers confiscated from him on his return to Australia in December 1921. The evidence that his diaries were the source of intelligence is revealed in an official report on the activities of the Communists in Australia in which it is recorded that 'Earsman's diary... gives a peep behind the scenes.'²⁹ Investigation Branch sought urgent advice about whether Christian was on board the 'Hobson's Bay'. A memorandum described what happened when the 'Hobson's Bay' arrived in Fremantle.

²⁵ Minutes of the Communist Party of Australia Annual Congress, 27 December 1921, *CPA Papers*, ML MSS 5021 Box 82.

²⁶ Minutes of the Communist Party of Australia Annual Congress, December 1921, *Hancock Papers*, ML MSS772 (Reel CY203 Frame 63).

²⁷ CJS to Esmonde Higgins, 2.5.22, *Esmonde Higgins Papers*, ML MSS 740 Vol 11 ff169-170.

²⁸ Macintyre, "The Reds", *op cit.*, p 125.

²⁹ "Summary No 8, March 1922", *William Morris Hughes Papers*, NLA MS1538/21/196.

I asked the Passports Officer to examine Earsman's passport and let me know as soon as the vessel berthed whether Miss CJ Smith were on board. The Customs Officer sent a confidential note out to the Purser informing him he wished to see Earsman and Miss Smith and when the vessel came alongside the Purser foolishly had all the Smiths aboard and Earsman ready to be interviewed. When the vessel was about to sail again Earsman asked the Passports Officer what was all the fuss about a Miss CJ Smith.³⁰

Head Office was not impressed. 'Your memo...was, to put it mildly, received by me with astonishment... Surely an examination of the passenger list would have sufficed to know whether Miss CS [sic] Smith was on the ship or not?'³¹

It is possible that Christian was already involved in a relationship with Carl Baker. A Commonwealth Investigation Branch report of 28 August 1922 states 'that it is understood here [Sydney] that Baker is living in adultery with a Miss Smith BA of the Labour College.'³² Furthermore, there is a curious sentence in a letter from Chris Hook (also a member of the CPA Central Executive) to Earsman, written in February 1923, and intercepted by intelligence authorities. Hook advised Earsman to 'Try to forget "her Ladyship" Bill, I don't want to say more.'³³ 'Her Ladyship' must be a reference to Christian and the remark suggests that he thought Earsman was the wronged party. When Earsman attempted to return in 1923, and again in 1927, the Government refused to endorse his passport because of its policy towards 'undesirables'.³⁴

It has been reported that Christian's relationship with Carl Baker scandalised Party members.³⁵ It was probably not known, however, that Baker had already had a previous adulterous relationship. While in England in 1917, Baker became involved with a woman and they had had a child. In 1919, calling herself Hilda Baker, she had written to the AIF Headquarters in London seeking to know his whereabouts and asking that he be obliged to support her and her child. She complained that she had supported herself, Baker and the child while his pay was being claimed by someone else.

³⁰ *Ibid*, f13.

³¹ *Ibid*, f14.

³² C W Baker, 22 August 1922, *Summaries on Communism and Communist Soviet Personalities*, NAA A8911 (A8911/1) File 154, Part 1.

³³ NAA, A3932 SC 292 Part 4. This file has a miscellany of bits of reports.

³⁴ David Dutton, "The Commonwealth Investigation branch and the Political Construction of the Australian Citizenry, 1920-1940", *Labour History*, No 75, November 1998, p 161.

³⁵ Heather Radi, "Christian Jollie-Smith [sic]" in H Radi (ed), *200 Australian Women: A Redress Anthology*, 1988, p151.

[D]uring the whole time he was here his allowance was drawn by this girl in Melbourne...consequently it was my money all along that kept things going. Fortunately, I was earning £3 per week. We had a very comfortable home which was mine and I even sold the piano to get a certain sum of money which he wanted, a good deal of my jewellery was pawned before he went back.³⁶

The 'girl in Melbourne' was Baker's legal wife Edith. Hilda Baker's claims were investigated by the AIF but Baker denied being married to her. On enquiries being made regarding her marriage certificate, Hilda Baker admitted that she was not legally married to him. However, the Inquiry Officer noted that 'the attitude of Mr Baker did not strike me as serious and he seems to treat the matter as a big joke and I cannot put much faith in his words.' Baker appears to have had no qualms about the financial exploitation of a woman nor, it seems, of anyone else. In August 1922, Baker was also reported as having recently visited Melbourne following the death of his child.³⁷ Apparently he 'wired up to Sydney for a collection to be taken up for £7 to pay funeral expenses.' Recalling these events some forty years later, May Brodney was severely critical of Baker's behaviour in deserting his pregnant wife, leaving her to support herself by working in a clothing factory where 'she was dragged by her hair over a machine.'³⁸ May Brodney attributed the death of the Baker's child to malnutrition. May Brodney's attempts to raise these matters before the Victorian Branch of the CPA at that time was probably the source of the criticism of Christian's behaviour.

'Twice as hard for a woman to be a Communist as a man'

Christian was apparently back at the Communist Party office by mid 1922. The long-standing split between the two 'Communist' parties ended in July 1922 and, at the Unity Conference called to finally combine the two parties into one, Christian was installed as Minute Secretary and was also elected to the Provisional Executive of the newly unified Party.³⁹ Baker was elected editor of *The Communist*. Around this time the Third International began a campaign to encourage more women to join the Communist Party. In support of this campaign, the editor of *The Communist* argued that 'while there is no 'separatist' women's movement there is necessity for the organisation of Communist women to proceed against different lines than

³⁶ 'Baker, Clarence Wilbur' AIF Personnel file, NAA B2455/1 Item 300932.

³⁷ C W Baker, 28 August 1922, *Summaries on Communism and Communist Soviet Personalities*, NAA A8911 (A8911/1) File 154, Part I.

³⁸ [May Brodney comments on Earsman and Baker], *Brodney Papers*, SLV 10882, Box 10, Folder 32.

³⁹ "Minutes of Unity Conference between the United Communist Party held in the Communist Hall Sussex Street on July, 15, 16 and 18, 1922" *CPA Papers*, ML MSS 5021 ADDON Box 1.

general party organisation.’⁴⁰ The Communists were sensitive about separate organisations for women because they believed that women’s oppression was a consequence of the same forces that caused the oppression of the working class and that revolution would ensure women’s liberation as well as men’s. The feminist movement, which campaigned separately for equal rights for women, was regarded as ‘bourgeois’ by the Communists. Christian took up the issue in an article entitled ‘Woman’s approach to Communism’. While Christian appears sympathetic to the difficulties faced by women who became party members her conclusion reflects the Communist view.

Christian begins her article by arguing that ‘it is at least twice as hard for a woman to be a Communist as a man’ because ‘men have always lived partly on the labor of women’ and that women regard participation in the working-class struggle as an extra burden on top of their domestic responsibilities. Women also regarded the class struggle with suspicion because they saw it as an excuse for men to escape from their home responsibilities but still expect their domestic needs to be met. She urged women to forget the ‘sex-war’ and concentrate on the ‘greater war for freedom of the working class.’ Christian argued that women should forget their resentment against men and join with them in the emancipation of the working class because only then will women gain their freedom. It seems, however, that Christian’s rallying cry to women to join the Communist Party did not result in many recruits. Many years later Oriel Gray noted that men in the Communist Party talked ‘glibly about women’s right to equality but never thought to share the housework or the child-minding or help with the shopping.’⁴¹

Towards the end of 1922, conflict developed between the Provisional Central Executive of the united CPA, of which both Christian and Baker were members, and its Sydney Branch. The origin of the conflict appears to have been a demand by the Provisional Central Executive for the Sydney Branch to rescind the election of delegates to represent the Sydney Branch at the 1922 Annual Conference⁴² with which the Sydney Branch refused to comply. Debate on the issue seems to have become personalised. Baker was criticised by Comrade Griffin, who was chairing the Sydney Branch meeting, as being ‘more concerned with a meal ticket than the movement.’ At the Communist Party Annual Congress in December 1921, Baker had accepted the editorship of *The Communist* ‘on the understanding that the salary would be a

⁴⁰ *The Communist*, August 18 1922, p 2.

⁴¹ Gray, *op cit.*, p 191.

⁴² “Some facts” printed pamphlet in *CPA Papers*, ML MSS 5021, Box 83. The following account is based on this pamphlet.

minimum of £5 and as soon as possible that the CE review the salary.’ It is probable that this salary had not been regularly paid. At the unity conference held in July 1922, it was agreed to make a ‘definite payment to [the] Editor of £3 per week to be increased as soon as finances permit.’ Baker had been re-appointed editor at this conference and may have pursued an increase in his salary. Griffin was asked to withdraw his accusation, which he did, but that was not the end of the matter.

The Provisional Central Executive seems to have been determined to exert its authority by charging five members of the Sydney Branch - Comrades Griffin, Mrs Griffin, Hall, Healy and Devlin - ‘with disruptive tactics in the Sydney Branch’. Griffin was also ‘charged for the statement he made about Comrade Baker’. Mrs Griffin was charged with ‘being the most unsociable woman in the movement and also making a few remarks about Baker.’ The Sydney Branch executive, however, repudiated the actions of the Provisional Central Executive which then proceeded to expel Healy, Griffin and Devlin from the Communist Party and sought endorsement of their actions. The Sydney Branch refused on the grounds that ‘the whole business was unconstitutional’ whereupon the Provisional Central Executive moved to expel the Sydney Branch from the Party.

The issue was further pursued at the Annual Conference of the Communist Party held in December 1922. Baker asked the conference delegates to consider whether the Provisional Central Executive had the power to expel the Sydney Branch and also whether it was justified in doing so. The Conference responded by asking Griffin ‘whether he was prepared to offer a frank apology to Comrade Baker ...withdrawing all statements made by him against Baker.’ Griffin’s response was apparently somewhat equivocal indicating only that ‘he was willing to submit to Communist discipline and accept the dictates of the Central Executive.’ Griffin was then reinstated on the instructions of the Conference.⁴³ After the 1922 Conference had dealt with Griffin, elections were held for a new Central Executive to take office in 1923. Baker was elected a member of the Executive and editor of the *Proletarian*. Christian, however, was not re-elected to the executive at this time. It is not clear whether or not she nominated.

The Labor College did not reopen for business in 1923 due to lack of support from those of its founding members who were now involved in the Communist Party.⁴⁴ In May 1923, an

⁴³ Minutes of the Conference of the Communist Party of Australia, December 23 1922, *CPA Papers*, ML MSS 5021 ADDON, Box 1 (Reel CY3096).

⁴⁴ Ann Turner, “Independent Working Class Education in Australia, 1917-29” M Ed Thesis, University of Melbourne, 1981, p 167.

Executive meeting of the Labor Council of NSW noted that, in the previous year, 'reports from time to time proved that only a very small number of students were attending classes.'⁴⁵ The Executive decided to recommend to affiliated unions that the College be closed. With the Labor College closed, Christian was out of a paying job. In July 1923, the Commonwealth Investigation Branch reported that she had received financial assistance from Dora Montefiore.⁴⁶ Born Dorothy Fuller in London, Dora (as she was known) had lived in Australia between 1874 and 1892 marrying George Montefiore in February 1881. They had a daughter and a son before George died in 1889. Dora left Australia in 1892 and, on returning to England, became involved in the women's suffrage movement and in socialism. She joined the United Communist Party of Great Britain in 1920. After her son died in Sydney in 1921, the Hughes Government initially refused to allow her to visit Australia to see her grandchildren. She was eventually granted permission when she agreed not to take part in any communist propaganda in Australia.⁴⁷ However, she seems to have evaded her undertaking. Although she kept 'away from Communist Hall, she [could] go to Trades Hall and receive members of the Communist Party in her own house.'⁴⁸ It was in these circumstances that she befriended Christian.

Although Christian does not appear to have held an official position in the Communist Party during 1923, she was still involved in the Party's activities. However, she seems to have been subject to further criticism. At the third annual Conference of the Communist Party, the Secretary, Denford, reported that Comrades Griffin and Moxon had been 'expelled [during the year] for unsatisfactory conduct and disruptive tactics consisting of unsatisfactory work and public criticism of the Party and its officials.' At the fifth session of the Conference, Griffin was asked to 'make proper application for re-admittance and apology to Miss Smith.' This Griffin refused to do. Christian was recorded as being present at this session, but at the next (sixth) session the Minutes record the receipt of a 'letter from Comrade Smith stating that she would be absent and that she did not want to stand for any position.' Subsequent to this, the Conference received a statement from Griffin in which he accepted 'the terms of the resolution proposed at the Monday evening session.' The Conference then agreed to readmit Griffin to the Party 'on condition that he make apology for the statement he made of a

⁴⁵ Minutes of Executive Meeting, 18 May 1923, *Labor Council of NSW Papers*, ML MSS A3842 FM1126.

⁴⁶ Summary 23, 31 July 1923, NAA A8911/1/153.

⁴⁷ Judith Allen "Dorothy Frances Montefiore", *ADB*, Vol 10, p 556.

⁴⁸ "Suspected persons", NAA A3932 SC 292, part 2.

member of the party.’⁴⁹ Christian’s decision not to nominate for any positions appears to have facilitated Griffin’s rehabilitation.

In fact, Christian left the 1923 Conference to travel to Melbourne ostensibly to farewell Baker who was on his way to Russia as one of the Communist Party of Australia’s delegates to the 1924 Communist Party Conference in Moscow.⁵⁰ On 29 December 1923, an officer of the Commonwealth Investigation Branch reported that ‘Baker [was] sailing on the ‘Larg’s Bay’ today as a pantryman ...Jollie Smith left Sydney for Melbourne December 26th presumably to join Baker en route.’⁵¹ Again, there was a flurry of official activity to determine whether or not Christian intended to travel to Moscow with Baker. An officer in Melbourne was ordered to ‘find out if Smith is a passenger or a stewardess.’ The nominated officer, John P Cassidy, went on board the ‘Larg’s Bay’ and spoke with the Purser and was told that Miss CJ Smith was neither on the passenger list or the crews’ roll. Not finding Baker on board he left the ship whereupon he met Baker and Christian on the pier.⁵² In conversation with Cassidy, Baker was quite informative about his intended itinerary. Cassidy remained on the pier with Christian until the ship departed Port Melbourne and then accompanied her back to the city.

What is needed is ‘a man from HQ’

While in Melbourne, Christian also took the opportunity to visit her old friend, Nettie Palmer. On 29 December, 1923, Nettie wrote to her brother about Christian’s suggestion of a job in terms which imply that she had seen Christian very recently.⁵³ Nettie informed him that Christian had suggested that there was a possibility of a job in Sydney. In her own letter to Esmonde, Christian explained the situation. ‘There is a chance of working up the research department in Sydney. Voigt held it for a couple of years as you know and then Howie took it on, more as a political key than anything else. He does not pretend to understand the work and in his hands it is crumbling.’⁵⁴ What was needed, she said, was ‘a man from HQ’ who would give the Bureau prestige and would impress the ‘uneducated union rank and file.’ Loading the bait, she went on ‘the job carries a salary of £300, I think.’ She suggested that if he wanted advice he should seek it from Baker, who was en route to Moscow, but ‘I would

⁴⁹ Minutes of the Third Annual Conference of the Communist Party of Australia, December 22 1923, *CPA Papers*, ML MSS 5021 ADDON, Box 1 (Reel CY3096).

⁵⁰ “Baker, Clarence Wilbur -5th Pioneer Battalion AIF”, NAA A402 (A402/3) File W294.

⁵¹ *Ibid.*, Report, 29.12.1923.

⁵² *Ibid.*, John P Cassidy to Major Jones, 3.1.24.

⁵³ Nettie Palmer to Esmonde Higgins, 29.12.1923, *Esmonde Higgins Papers*, ML MSS 740, Volume 9.

⁵⁴ CJS to Esmonde Higgins, 9.1.24, *Esmonde Higgins Papers*, ML MSS 740, Volume 11.

suggest that you don't [her emphasis] ask advice from Earsman. He is not in touch with anything in Australia at all and his judgement in matters here is not trusted.' Christian went on to stress how important the work of the Bureau was and 'you can make it what it should be, of enormous value to the whole strength of the movement here.' In extolling the importance of the work and Esmonde's suitability for the job, Christian may have gilded the lily. However, events on the broader political stage in New South Wales would interfere with her plans.

By 1923 the Communist Party of Australia had lost momentum. The fact that the world revolution had not eventuated as predicted dampened enthusiasm.⁵⁵ Finally, in 1923, the Communist Party lost its battle to achieve a united front with the NSW branch of the Australian Labor Party (ALP). In the lead up to the June 1923 Annual Conference of the NSW ALP, two factional groups were locked in a struggle to control the conference: one group was based around the AWU, and led by Jack Bailey; the other around Labor members of the NSW Parliament, particularly successive premiers, John Storey and James Dooley. Taking advantage of the factional struggle, in order to advance his own ambition to lead the NSW Labor Party, was John Thomas (Jack) Lang. In an attempt to shore up support, the AWU/Bailey faction encouraged Jock Garden and other so-called 'Trades Hall Reds', who had left the Labor Party in 1919, to rejoin.⁵⁶ In a countermove, Jack Lang sought support from the Secretary of the Miners' Federation, Albert Willis, who persuaded the Miners' Federation to affiliate with the Labor Party in time to ensure its representation at the 1923 conference. Of a similar size to the AWU, it was expected that Miners' Federation delegates' votes would neutralise the AWU votes.⁵⁷

At the 1923 Labor Party Conference, a number of Communist party members and supporters, including Jock Garden, succeeded in being elected to the Executive of the New South Wales branch of the Labor Party.⁵⁸ Willis was elected President and on his casting vote the conference passed a motion affirming 'the principle of 'other working class organisations', (i.e. the Communist Party) affiliating with the ALP.'⁵⁹ It was Willis, and his Miners' Federation, who were supporting the Sydney Research Bureau in which Christian was

⁵⁵ P J O'Farrell, "The Russian Revolution and the Labour Movements of Australia and New Zealand, 1917-1922. *International Review of Social History*, Vol 8, 1963, p 192-193.

⁵⁶ Bede Nairn, *The 'Big Fella': Jack Lang and the Australian Labor Party, 1891-1949*, Melbourne University Press, Revised Edition, 1995, p 51; Dixon, "Greater than Lenin", *op cit*, p 71, 79, 100-105.

⁵⁷ Dixon, *op cit*, p 102, Frank Farrell, "Dealing with the Communists" in Radi, Heather and Spearritt, Peter (eds) *Jack Lang*, Hale and Iremonger, Sydney, 1977, p 50 Nairn, *op cit*, pp 51-52.

⁵⁸ Macintyre, "The Reds", *op cit*, p 91; Farrell, *op cit*, p 49.

⁵⁹ Farrell, *op cit*, p 50.

offering Esmonde a job. Christian seems to have been less than enthusiastic about the Miners' Federation support though, telling Esmonde of her concerns.

[T]he Miners' Federation, in the shape of Willis, is supporting it and the cash to keep it going is coming out of the Miners' office straight into Howie's pocket. That is unsatisfactory but such is the mentality of Australia, Sydney in particular, that no one local has their confidence speaking broadly and it is almost an impossible struggle without a lift from the other side.⁶⁰

In her initial offer of a job for Esmonde in the Bureau, Christian clearly expected these arrangements to continue.

However, relationships between the Communists and the Labor Party deteriorated after the 1923 State Labor Conference. Almost immediately after the Conference, the Communists lost the support of Willis and the Miners' Federation through their unwelcome intervention when the owners of the Maitland mine locked out their employees. Calling for an all out strike, at a time when Willis was attempting to negotiate a return to work, the Communists accused the Federation of betrayal. While the miners subsequently returned to work, further attempts by the Communists to destroy the credibility of the Miners' Federation leaders, resulted in Willis joining Jack Lang in a campaign to expel the Communists from the Labor Party.⁶¹ Nettie warned her brother in December that 'I'd think it would be risky to apply for a position at such a distance before you had got to know the state of affairs at all...you need to know how things are developing and which way is which in fact as well as in name.'⁶² In the event, Esmonde may well have wished that he had taken more heed of Nettie's advice.

Christian had urged Esmonde, if he was interested, to cable an application for the position. Esmonde apparently did so but then heard no more about it. Responding to a letter from Esmonde in which he appears to have complained about the lack of a response, Nettie explained: 'It seems that the thing fell through for the time as they were putting their money into a paper instead of research.'⁶³ At the time Nettie wrote this, in late June 1924, Esmonde was already on the way home.⁶⁴ He had left London on 29 May before Christian's letter dated 3 May 1924, explaining what happened, reached him. 'I have put off writing to you,' she wrote, 'till the ALP Conference is over hoping that our tide of bad luck might turn.

⁶⁰ CJS to Esmonde Higgins, 9.1.24, *Esmonde Higgins Papers*, ML MSS 740, Volume 11.

⁶¹ Macintyre, *op cit.*, p 92; Farrell, *op cit.*, p 51; Nairn, *op cit.*, p 61-62.

⁶² Nettie Palmer to Esmonde Higgins, 29.12.1923, *Esmonde Higgins Papers*, ML MSS 740, Volume 9.

⁶³ Nettie Palmer to Esmonde Higgins, 23.6.1924, *Esmonde Higgins Papers*, ML MSS 740, Folder 8.

⁶⁴ Nettie's 1924 Diary, *Palmer Papers*, NLA MS 1174/16/6.

However, it didn't. The Communists were beaten by 30 instead of winning by 1 as they did last time so there you are. Now for the tale.'⁶⁵

Returning to Sydney from Melbourne in early February 1924, Christian learned that 'Willis, the financial security and payer of salaries of the Bureau had taken over the *Daily Mail* and was going to run a Labor daily. That meant that all the cash and support I had counted on for the Bureau was diverted.'⁶⁶ Willis had decided to fund a new newspaper, to be named the *Labor Daily*, which was established as part of Lang's campaign to neutralise the power of the Australian Workers' Union.⁶⁷ Christian tried to obtain financial support from an alternative source. She wrote to Fred Patterson in Brisbane, whom she had described in her January letter to Esmonde as being supportive of the Research Bureau, but received a negative response. She then placed her confidence in Jock Garden who 'was staking everything on the [1924 Labor Party] Conference and said that we were sure to win and then that we could make a move independently of Willis.'⁶⁸ Garden was actively involved in the campaign to overturn the ALP state executive decision that members of the Communist Party could not also be members of the ALP.⁶⁹ 'So matters went on,' Christian explained, 'and the final result is the total defeat of the Communists in everything.'⁷⁰ Finding an alternative source of financial support to replace that previously provided by Willis and the Miners' Federation would be a struggle. 'I hope you are not disappointed very much at the way things have turned out,' Christian went on,

I was so optimistic when I wrote and you were an angel to cable quickly. If all had been as they appeared to be when I wrote, you would have been halfway out here by this time and we would all have been settling down to a year's good constructive work.

Esmonde arrived in Melbourne on 18 July,⁷¹ and Christian again wrote to him on that day explaining what had happened.⁷² The tone of this letter is much more defensive than the previous letter.

Christian explained that, when Willis withdrew his support 'I wanted to write to you at once, but Garden stopped me, saying he thought that even without Willis it could be managed.' She

⁶⁵ CJS to Esmonde Higgins, 3.5.24, *Esmonde Higgins Papers*, ML MSS 740, Volume 11.

⁶⁶ *Ibid.*

⁶⁷ Farrell, *op cit*, p 50.

⁶⁸ CJS to Esmonde Higgins, 3.5.24, *Esmonde Higgins Papers*, ML MSS 740, Volume 11

⁶⁹ Farrell, *op cit.*, p 51.

⁷⁰ CJS to Esmonde Higgins, 3.5.24, *Esmonde Higgins Papers*, ML MSS 740, Volume 11.

⁷¹ Nettie Palmer 1924 Diary, *Palmer Papers*, NLA MSS 1174/16/6.

⁷² CJS to Esmonde Higgins, July 18.24, *Esmonde Higgins Papers*, ML MSS 740, Volume 11.

said she ‘thought he was too optimistic.’ It was Garden who urged her to wait until after the ALP conference ‘as he was sure that he and the Industrialists would win.’ Justifying herself, she went on ‘When I lost Willis as the paymaster of the Bureau...I had wanted to call it off, having little faith in these other methods. However, I was so anxious for you to come out that I gave in to Garden’s optimism.’ She had also questioned Baker, on his return from overseas, who reported that he had discussed the situation fully with Esmonde and said that ‘you entirely understood the position.’ However, it is unlikely that Baker would have known about Willis’ decision to withdraw financial support and therefore could not have told Esmonde about the consequences. Christian advised Esmonde that there was now no possibility of a job in Sydney, unless ‘Willis may be able to further shuffle the cards’.⁷³ She encouraged him to visit Sydney and speak to Willis. In the event, Esmonde did travel to Sydney soon after his return⁷⁴ and, after discussions with Garden,⁷⁵ took up a position in the Bureau.

These events may have strained the relationship between Christian and Esmonde. They had been friends since Esmonde was a schoolboy and there is evidence that Christian had treated him like a brother. However, much had changed since then and, while they were both now Communists, Esmonde had worked for the Communist Party of Great Britain and had visited Russia whereas Christian’s experience was restricted to Sydney and Melbourne. Esmonde noted the difference in a letter to his former colleagues in Britain shortly after he commenced work in Sydney. He described the Party in Sydney, as ‘a handful of derelicts...restlessly turning over proposals for a way out...anxious that the Party is not strong enough’ to survive the conflict with the Labor Party. Moreover, ‘bluff, intrigue, faction, indiscipline, hypocrisy, talk, ineptitude - this is all the poor old party is able to trade in now.’⁷⁶ Some time in the latter part of 1924, Esmonde’s possible disappointment with the party seems to have spilled over into a disagreement with Christian. Over what particular issue they fell out is not clear, but it may have been over Christian’s representations of the position in her initial offer of a job. Nettie appears to have been aware of some tension between her friend and her brother, writing to calm his feelings.

[I]t made me sorry to hear that Christian and you had a misunderstanding. I can’t help thinking its only temporary and in political movements its very hard to express the exact position at a

⁷³ CJS to Esmonde Higgins, July 18.24, *Esmonde Higgins Papers*, ML MSS 740, Volume 11.

⁷⁴ Nettie Palmer, entry for 28 July, 1924 Diary, *Palmer Papers*, NLA MS 1174/16/6.

⁷⁵ Esmonde Higgins to Jock Garden, August 5 1924, *Esmonde Higgins Papers*, ML MSS 740, Volume 7.

⁷⁶ Esmonde Higgins to “you blokes”, September 2 1924, *Esmonde Higgins Papers*, ML MSS 740 Volume 7.

given time. Christian herself is worried, of course, so I gathered from Theo; her professional work must be an uphill matter...⁷⁷

The reference to Christian's professional work dates the 'misunderstanding' to around the time Christian had resumed her legal career.

Financial stresses

It is not clear how Christian had supported herself from 1923 onwards. During 1920 and 1921, until her illness, she lectured at the New South Wales Labor College for which she received some remuneration.⁷⁸ The decision to move back to Melbourne, to live with her parents while she convalesced in late 1921 and early 1922, is likely to have been at least partially due to financial pressure. When she returned to Sydney, she lived with Adela and Tom Walsh while she supposedly looked for a suitable job and a few weeks later she was living with Carl Baker, who took over the editorship of the *Worker's Weekly* in June 1923. Around the same time, Christian again started working for the Communist Party. It is not clear whether she received any remuneration for this work. If she did so it may have been an irregular source of income. After editing fourteen issues of *Worker's Weekly*, Baker resigned as editor because 'the Party at this stage was unable any longer to guarantee him a regular salary through the collections taken up for that purpose.'⁷⁹ At the end of 1923, Baker left Australia to travel to Russia not returning until April 1924. On his return, he was interviewed at Port Melbourne by John P Cassidy who reported that 'Baker intends to leave the ship in Sydney and attempt some work in the insurance business'.⁸⁰

A Commonwealth Investigation Branch report of 16 July 1924 notes that Christian had been appointed to the 'Propaganda Committee'.⁸¹ This so-called Propaganda Committee may have been a mistaken reference to the establishment, in April 1924, of an Educational Bureau. The Central Executive had been heavily criticised 'for neglecting educational work.' In response, the executive decided to give the critics the opportunity 'to put their ideas into practice. The following were requested to attend a meeting convened by Comrade Baker: Comrades

⁷⁷ Nettie Palmer to Esmonde Higgins, 2 January 1925, *Esmonde Higgins Papers*, ML MSS 740 Volume 9.

⁷⁸ May Brodney to JN Rawling, 28.9.64, *James Normington Rawling Papers*, Noel Butlin Archives Centre (hereafter NBAC), ANU, N57/76.

⁷⁹ "Annual Report for 1923", *CPA Papers*, ML MSS 5021 ADD-ON, Box 1 (Roll 3096).

⁸⁰ John P Cassidy to Mr Jones, 12.4.24, "Clarence Wilbur Baker", NAA A402/W294.

⁸¹ Report, 16 July 1924, *Summaries on Communism and Communist Soviet Personalities*, NAA A8911 (A8911/1) File 154 Part 1.

Thomas, Leece, Smith, Payne and Drew and any others willing to take up this work.’⁸² It is not clear whether Christian was one of the ‘critics’. The named members duly met to discuss what could be done. They ‘agreed that a monthly theoretical supplement be included in the *Workers’ Weekly*. In addition, a list of proposed classes was drawn up, including classes on the Communist Party, on Economics and on ‘Ancient Civilizations by Comrade CJ Smith’ Perhaps Christian hoped to earn some money from teaching the class but it did not proceed - perhaps because of a lack of interest from the ‘wage plugs’. The only class that did start was an Economics class conducted by Guido Baracchi which proved to be popular.⁸³ Baracchi had returned to Australia in April 1924 and Christian quickly persuaded him to take responsibility for ‘the Australian Section of the Workers’ International Relief.’ Baracchi ‘became Secretary of the WIR, joined the Clerks’ Union and [was] provided with a table and chair in the Labor Council Office.’ Here he was joined by Esmonde Higgins later in 1924.⁸⁴

Christian’s financial situation must have been precarious by this time. During 1924, in order to earn some money, Christian apparently undertook some ad hoc typing tasks. A receipt, dated 16.6.24, shows that she received £5 from the Secretary of the Federated Seaman’s Union (Tom Walsh) for typing 400 pages.⁸⁵ Such work is likely to have been irregular and Christian’s income, from all sources, is likely to have been limited. It is not clear when she began to think about restarting her career as a lawyer, but she may have been prompted in this direction by the publicity surrounding the admission to practice of the first woman solicitor in New South Wales, Marie Byles. Marie Byles had enrolled in Law at the University of Sydney in 1918. In the same year the Women’s Legal Status Act, enabling women to practice as barristers and solicitors in New South Wales, was passed by the New South Wales Parliament. Byles was admitted as a solicitor on 6 June 1924. The first woman solicitor admitted to practice in New South Wales was a newsworthy event. As Byles describes it, ‘I was of course much run after by newspaper reporters and photographers. It was easy to feel important but it was quite another matter to get a job.’ Christian was perhaps reminded that she too had the qualifications to be admitted as a solicitor in New South Wales. Furthermore, Christian was approaching her fortieth birthday, a time when many people reassess their lives. Christian was duly admitted to practice as a solicitor in New South Wales on 30 October 1924, just short of five months after Marie Byles.⁸⁶ Only one newspaper reported her admission.⁸⁷

⁸² [JS Garden], “Political Secretary’s Report for 1924”, *CPA Papers*, ML MSS 5021 ADD-ON, Box 1 (Roll CY3096).

⁸³ *Ibid.*

⁸⁴ “The Twenties”, *Guido Baracchi Papers*, NLA MS 5241, Folder 44.

⁸⁵ Receipt signed by CJS, *Pankhurst Walsh Papers*, NLA MS 2123, Folder 63.

⁸⁶ *ADB*, Vol 11, p 641.

The end of the dream?

Christian may have already been losing her faith in the Communist Party. After she visited Nettie in Melbourne in July 1924, Nettie noted in her diary that Christian ‘spoke of the parties in the New South Wales Labor Movement. Full of faction and calamitous intrigue.’⁸⁸ By 1925 it was abundantly clear that the revolution was not imminent. Membership of the Communist Party remained small and the Party was in danger of disintegration. Writing in March 1925, Esmonde Higgins lamented that ‘we can’t pretend to function as an alternative party to the Labor Party... Everyone is rowing with everyone else... Folks keep saying they are going to resign.’⁸⁹ Eighteen months later he wrote that ‘hardly any of the present members were in five years ago.’⁹⁰

Christian did not attend the 1924 CPA Annual Conference, spending Christmas 1924 and the New Year in Melbourne. While in Melbourne she saw Bob Brodney, then a member of the reconstituted Melbourne Branch of the Communist Party, who told her about a resolution from Melbourne relating to Carl Baker, who had been forced off the Central Executive at the 1924 Annual Conference. After she returned to Sydney she found that Baker knew nothing about any such resolution and she wrote to Brodney informing him of this. Christian also discussed the matter with Guido Baracchi who encouraged her to protest to the Central Executive about the way Baker had been treated. Christian told Brodney that Baker was against her making any protest but she was going to go ahead without his consent.⁹¹

Meanwhile Baker left Sydney for Lithgow. He had trained as an optician and intended to find work in his trade. Baker’s departure for Lithgow suggests that his relationship with Christian was finished but whether it can be described as ‘desertion’ as has been suggested⁹² is debateable. Although she intended to protest to the Central Executive about the way Baker had been treated, there is nothing in Christian’s letter to Bob Brodney to suggest that Baker’s intention to leave Sydney (and possibly Australia) caused her any personal heartache. She is quite matter-of-fact about ‘his wishes... to get to the country... and as soon as possible to get

⁸⁷ *The Sun*, (Sydney), 30 October 1924.

⁸⁸ Diary 1924 - entry for 15 July, *Palmer Papers*, NLA MS 1174/16/6.

⁸⁹ Esmonde Higgins to Harry [Pollitt], 22 March 1925, *Esmonde Higgins Papers*, ML MSS 740/7/149-155.

⁹⁰ Esmonde Higgins to Harry [Pollitt], 30 August 1926, *Esmonde Higgins Papers*, ML MSS 740/7/171.

⁹¹ CJS to Bob Brodney, 26.1.25, *AT Brodney Papers*, SLV MS 10882, Box 5, Folder 11.

⁹² Macintyre, “The Reds” *op cit*, p 125. In a letter to JN Rawling in September 1964 (*James Normington Rawling Papers*, NBAC, ANU, N57/76) May Brodney states that she “heard” a “story” that the “starry-eyed” (apparently a reference to Christian) was upset “when she discovered that Paul had left her for a Pauline”. However, the source of the story was indirect and May Brodney was a hostile witness as shown by other correspondence in this file. At the time Rawling was attempting to write a history of the founding of the CPA.

out of Australia and forget the whole thing.’ While Baker did not, in the end, leave Australia he was soon to be expelled from the Communist Party.

In July 1926, the Central Executive of the Communist Party placed a strongly worded notice in the *Workers’ Weekly* advising readers that ‘Carl W Baker is no longer a member of the CPA.’⁹³ The Commonwealth Investigation Branch noticed this and sought further information from its officers in Sydney. They reported that Baker had been working as an optician in Lithgow and had been expelled from the party for charging the workers excessive prices for spectacles.⁹⁴ However, a different story emerges in correspondence between Herbert Moore, sent to Australia by the Communist International to eradicate doctrinal errors in the CPA,⁹⁵ and Norman Jeffery, a party organiser who later became a member of the Central Executive. Defending himself against Jeffery’s accusation that he was favouring Baker, Moore argued that Baker had been mistreated. According to Moore, Baker had entered into a partnership with a man named Smith to establish an optical business. Baker was to solicit orders while Smith completed the work. However, orders were too few to support two partners and Baker left the business with the understanding that Smith would complete any outstanding orders which he had failed to do. As a result Baker was accused of taking money from workers under false pretences and was expelled from the party without being able to defend himself.⁹⁶ Guido Barracchi soon followed Baker out of the Communist Party. Jock Garden also later resigned, in September 1926, and applied to join the Labor Party. According to Blake, Garden ‘never got over the shock of the 317 votes’ he received in the 1925 election.⁹⁷

The departure of Baker and Baracchi may have led Christian to reconsider her own membership of the Communist Party. A note on Christian’s security file, dated 6 April 1926, suggests that she resigned from the Communist Party ‘early in 1926’,⁹⁸ although there is no other evidence to confirm this. Baracchi and Garden were formally expelled from the CPA at its sixth annual conference in December 1926 but there is no mention of Christian.⁹⁹ On the other hand, Christian is named in a list of ‘militant communists not attached to the Central

⁹³ *Workers’ Weekly*, 16 July 1926, p 3.

⁹⁴ File Note dated 3 August 1926, NAA 8911/154 Part 2.

⁹⁵ Macintyre, “The Reds”, *op cit.*, pp 170-171.

⁹⁶ [Herbert] Moore [Harry Wicks] to Norman Jeffery, 10 February 1931, *Communist Party -NSW - Discipline* NAA A6355/1/31.

⁹⁷ Bede Nairn, “John Smith Garden”, *ADB*, Vol 8, p 615. J D Blake, “The Australian Communist Party and the Comintern in the early 1930s”, *Labour History*, No 23, November 1972, p 40.

⁹⁸ “Miss Christian Jollie Smith” NAA CRS 6119/90.

⁹⁹ Report of the Central Executive, Sixth Annual Conference 1926, *CPA Papers*, ML MSS 5021 ADD-ON 1936, Box 1.

Committee' which was tabled in the New South Wales Legislative Assembly in December 1931¹⁰⁰ and Ted Laurie, a Communist barrister practising in Melbourne, was convinced that she was still a member of the CPA when he met her in Sydney in the 1940s.¹⁰¹

If, indeed, she did resign from the Party she may have been influenced by conflicting demands - between those of the Communist Party and those of a fledgling legal practice. The Communist Party expected its members to attend meetings and commit themselves to carrying out the work of the party and was not very sympathetic towards members who did not pull their weight. While Christian had been actively involved in the affairs of the party from its inception she may have seen that, in order to build her practice, she would need to focus her energies on courting clients and cultivating closer links with the Labor Party in New South Wales. As we shall see, from 1928 Christian became closely associated with some very high profile members of the Labor Party through her legal practice.

Starting again as a lawyer

Christian initially established her legal practice in the Bank Chambers on the south side of Hay Street at the intersection with Thomas Street¹⁰² in Haymarket. She wrote to Bob Brodney from that address in January 1925. Bank Chambers was a two storey building and Christian's office was on the first floor. She was the only lawyer who had offices there. Other occupants included a dentist, a firm of auctioneers, a public accountant and Miss Croker who was a photo artist [sic]. Christian practised from Bank Chambers for the best part of two years.

On returning from Melbourne in January 1925, Christian had been met at Central Station by a friend who wanted to sue her husband, a government official, for maintenance for herself and her child. This appears to have been one of Christian's first legal cases. She described it as 'quite a nice little case.' Her counsel 'made mincemeat of the other side in the first round. Next round is next Friday, when we expect to have a good win.'¹⁰³ She next took on the defence of Achilles Dimitriades who was arrested on 4 February 1925 and charged with indecency. A Greek travelling on a French passport, Dimitriades had arrived in Australia in August 1924 and immediately established contact with Jock Garden and other members of the

¹⁰⁰ "Communists, list of names of certain, in New South Wales", *NSW Parliamentary Papers*, 1930-1931-1932, Vol 1.

¹⁰¹ Peter S Cook, *Red Barrister: A Biography of Ted Laurie QC*, La Trobe University Press, 1994, p 161.

¹⁰² *Sands Sydney NSW Directory, 1925*; *New South Wales Law Almanac for 1926*, p 107.

¹⁰³ CJS to Bob Brodney, 26.1.25, *AT Brodney Papers*, SLV MSS 10882, Box 5, Folder 11.

Communist Party. It emerged that his mission in Australia was to organise the Greek community in Australia into Communist groups. Convicted as charged, he was sentenced to six months in prison with hard labour but was deported on 3 April.¹⁰⁴

Only two further cases were reported in the *Sydney Morning Herald* during 1925 in which she was noted as the instructing solicitor. In the latter half of the 1920s, establishing a legal practice in Sydney without family connections or friendships was difficult even for male lawyers. Often the only way to obtain work was to haunt the police courts. Even if every case that came along was accepted there was often little to do in the office except play chess to pass the time.¹⁰⁵ As one of the first women to practise law in New South Wales, Christian was not only handicapped by the lack of any family connections in the State but also by prejudice against women lawyers.¹⁰⁶ Her link with the Communist Party could also have been a handicap but through its officials in some unions it was her best source of contacts. However, these were slow to develop. Lawyers were not allowed to advertise but the reporting of cases, especially in the 'Law Report' columns of the *Sydney Morning Herald*, was an important means of advertising one's availability.¹⁰⁷

Christian may have whiled away some of her uncommitted time in drafting an article which was published in the January-February 1926 edition of *The Communist*. Entitled 'Fragments of Australian History', the article describes the background to the choice of Australia as the site of a new penal colony.¹⁰⁸ Christian was critical of the arrangements for the convicts on the First Fleet but there is nothing in the article to suggest that Christian intended to provide the usual Communist propaganda. She refers to 'two incidents... as evidence of the spirit of the workers' - a strike by seamen who refused to go to sea until they were paid and a report that convicts on one of the ships had planned to take over the ship but there was no suggestion that the plight of the convicts was due to 'capitalist oppression' in England as might have been expected.

¹⁰⁴ "Communism – Not a Bogy – A Real Menace", *Sir John Latham Papers*, NLA MS 1009, Series 27. The following account is based on pages 148-149 of this paper. Although CJS is not referred to by name there can be no doubt that "one of the few women solicitors in Sydney, herself a Communist" is a reference to her.

¹⁰⁵ JM Bennett with EJ Minchin and Anthony Fisher, *A History of Solicitors in New South Wales*, Legal Books Pty Ltd, Sydney, 1984, p 278.

¹⁰⁶ *Ibid.*, p 274.

¹⁰⁷ David Marr, *Barwick*, George Allen and Unwin, Sydney, 1980, p 17.

¹⁰⁸ CJS, "Fragments of Australian History", *The Communist*, January-February 1926, pp13-16. Cf Ged Martin (ed), *The Founding of Australia: The Argument about Australia's Origins*, Hale and Iremonger, 1978, pp 9-29.

Both of Christian's other two cases reported in 1925 were in the NSW Industrial Court. In July, she briefed counsel on behalf of the Amalgamated Clothing and Allied Trades Union which had successfully charged Murdoch Manufactories Limited with breaching the Federal Clothing Award. The company was fined £1 with £8/8/- costs.¹⁰⁹ The company appealed the decision but it was dismissed.¹¹⁰ Again Christian must have been satisfied by the successful outcome. As employers could be expected to have the capacity to pay, successful cases by unions against employers for breaches of industrial awards would seem to be a sure way to generate fee income.

Her next reported case, heard in December, had clear links to the Communist Party. The case revolved around an internal union dispute over the formation of the management committee of the NSW branch of the Federated Miscellaneous Workers' Union of Australia. At meetings of the union held in November and December 1925 the positions of the president and the executive members of the union had been declared vacant and a new management committee elected. A resolution that no known or avowed Communist could hold office in the Union was also passed. Nine union members, at least two of whom were Communists - Lance Sharkey (who was to be elected to the Central Executive of the CPA in 1926) and Chris Hook (who had been an original member of the Central Executive of the CPA along with Christian) - challenged the election of the new committee and the prohibition on Communist holding office in the NSW Industrial Court. Christian was retained by the plaintiff union members.¹¹¹ However, the hearing was adjourned to allow the parties to confer and a settlement was reached in which Chris Hook was restored to his position as Secretary of the Union pending a new vote.¹¹²

The return of the Bruce-Page Government at the federal election held in November 1925, by an overwhelming majority, was to have ramifications for Christian's future practice. After a campaign in which Prime Minister Bruce highlighted the threat to Australia of the communist menace,¹¹³ John Greig Latham was appointed Attorney-General in the new government. Latham, who had been one of Christian's sponsors for admission to practice in Victoria in

¹⁰⁹ "Access by Union Representative" *Sydney Morning Herald (hereafter SMH)*, 2 July 1925, p 6.

¹¹⁰ "Access by Union Representative", *SMH*, 26 September 1925, p 12.

¹¹¹ "Miscellaneous Workers' Dispute", *SMH*, 23 December 1925, p 9. Albert De Baun was admitted to the bar in 1920. He was appointed to the bench of the Industrial Commission of New South Wales in 1938. *Who's Who*.

¹¹² "Disputed Control of Union" *SMH*, 30 December 1925, p 6.

¹¹³ Stuart Macintyre, "The Succeeding Age 1901-1942", *The Oxford History of Australia*, Vol 4, OUP, Melbourne, 1993, p 228; Radi, *op cit.*, p 400.

1912, was passionately anti-communist.¹¹⁴ On 28 January 1926, he introduced a Bill in the House of Representatives on 28 January 1926 to amend the Commonwealth Crimes Act for the purpose of dealing with ‘unlawful associations,’ those which advocated or encouraged ‘the overthrow of the Constitution of the Commonwealth by revolution or sabotage; the overthrow by force or violence of the established government of the Commonwealth or of a State or of any other civilized country; or of organized government; or the destruction or injury of property of the Commonwealth or of property used in trade or commerce with other countries or among the States.’ The Bill also reversed the onus of proof by declaring that ‘the averments of the prosecutor contained in the information or indictment shall be prima facie evidence of the matter or matters averred.’¹¹⁵ These amendments were not acted upon for another seven years but when they were it would provide work for Christian.

During the first half of 1926 there were no reported Court cases in which Christian was involved although she may have been advising clients in ways which did not require a Court appearance such as in drafting wills, contracts and other legal documents. The distinction between the work of barristers and solicitors was that solicitors were responsible for the mechanics of bringing cases to court while barristers argued the case in court. In preparing cases there was much time consuming office work to do - interviewing clients, obtaining evidence and witness statements and preparing documents and affidavits for lodgement with the Court. The only technological aids were the telephone and the typewriter. Documents had to be copied by the tedious process of transcription and retyping which involved hours of checking copies against originals for accuracy.¹¹⁶ Initially Christian would have done all of this herself as it is unlikely that she could have afforded to employ a legal clerk at this juncture. Sometime in 1926 she moved from Hay Street to Williamson House at 51 Castlereagh Street.¹¹⁷ Williamson House was a three-storey building with a mixture of professional (including other solicitors) commercial and personal service providers. She seems to have shared a room on the second floor with Carlyle Johnston. It is not clear whether this was just a cost-saving measure or she was working for or with Johnston. Whatever the reason, the arrangement did not last very long as in the following year she moved to premises in Elizabeth Street.

¹¹⁴ Clem Lloyd, “Not Peace But a Sword! – The High Court under J G Latham”, *Adelaide Law Review*, No 11, 1987, pp188-191.

¹¹⁵ Crimes Bill -Second Reading Speech, *Commonwealth Parliamentary Debates* (hereafter CPD), Vol 112, p 467; S Ricketson, “Liberal Law in a Repressive Age: Communism and the Law 1920-1950”, *Monash University Law Review*, Vol 3, November 1976, pp 105-106.

¹¹⁶ Bennett et al, *op cit*, p 279.

¹¹⁷ *Sands Sydney NSW Directory*; *New South Wales Law Almanac for 1927*, p 109. The site is now occupied by the MLC Centre.

In August 1926, Christian was reported as instructing solicitor in the Divorce Court. Christian's client sought a decree of restitution of conjugal rights against his wife which was granted.¹¹⁸ Such an action was designed to enforce co-habitation and was only available under the divorce laws of New South Wales and South Australia. A husband or wife who failed to comply with a decree of restitution of conjugal rights was deemed guilty of desertion and the other spouse could then proceed to petition for divorce. This two-step process resulted in a speedier divorce than the normal ground of desertion which required a petitioner to wait for three years before petitioning for divorce.¹¹⁹ The petitioner was required to demonstrate sincerity in wanting his or her spouse to return to the marital home and a defence available to the respondent was 'reasonable excuse'.¹²⁰

In her next case, involving a breach of contract heard in September in the District Court, she briefed Joseph Lamaro to appear on behalf of her client.¹²¹ While the outcome of this case was unsuccessful, the association with Joseph Lamaro was to prove helpful to Christian in the future. Admitted to the Bar in 1922, he was to be elected to the NSW Parliament in 1927 and was a supporter of Jack Lang. After Lang was re-elected in October 1930 he became Minister of Justice and in 1931, Attorney-General.¹²² In October 1926, Christian again successfully represented the Amalgamated Clothing and Allied Trades Union in two cases before the Industrial Magistrates Court.¹²³ Christian must have been very pleased with the outcomes of these two relatively straightforward cases with their substantial costs component but as she had only a few cases her earnings would have been limited.

In April 1927 her father became very ill which may partly explain the few cases that she handled before his death on 8 September 1927.¹²⁴ There is no evidence that she returned to Melbourne during her father's illness but it would be surprising if she did not. Only two cases handled by Christian were reported in the period before his death. In May 1927, she briefed counsel in her first workers' compensation case. Workers' compensation was a relatively new province for litigation. Passed by the Lang Labor government, the *Workmen's*

¹¹⁸ "Hartly v Hartly", *SMH*, 4 August 1926, p 10.

¹¹⁹ Paul Toose, Ray Watson, David Benjafield, *Australian Divorce Law and Practice*, The Law Book Company, 1968, p 387.

¹²⁰ P E Joske, *The Laws of Marriage and Divorce in Australia and New Zealand*, Butterworth and Co, 1952, pp 99, 100.

¹²¹ "Kangaroo Hunt Motion Picture: Longford v Faulkner", *SMH*, 14 September 1926, p 6, and 15 September 1926, p 12.

¹²² WG McMinn "Joseph Lamaro", *ADB*, Vol 9, p 648.

¹²³ "Complaints against Tailors", *SMH*, 14 October 1926, p 6.

¹²⁴ Ian Breward, "Thomas Jollie Smith", *ADB*, Vol 11, p 664.

Compensation Act 1926 provided for compulsory insurance to compensate workers for medical costs and loss of income due to injuries and diseases sustained in the workplace or travelling to and from work.¹²⁵ The Act had only commenced operation on 1 July 1926 so Christian was not any more disadvantaged than other solicitors in acting on behalf of clients in this area of the law. However, her first compensation case was decided in favour of the employer.¹²⁶ After that there was also another uncontested divorce petition for which she briefed Joseph Lamaro.¹²⁷

From mid-September 1927 until the end of the year, Christian was kept busy preparing cases for court appearances. The nature and variety of these cases suggests that Christian was accepting everything that came along. Also, the Law Report in the *Sydney Morning Herald* begins to refer to her as C Jollie Smith and Co which suggests that it was around this time in 1927 that she formed herself into a company. It was also around this time that she moved to chambers at 185 Elizabeth Street where she was to remain for the remainder of her legal career.¹²⁸ Manchester Unity Building, 183-187 Elizabeth Street, was eleven storeys. In the basement were dining rooms and on the ground floor there were shops. Christian's office was on the second floor. Two dentists, an architect, an accountant and physician and surgeon occupied other rooms on her floor. The remainder of the building had a similar mix but with a predominance of dentists – eleven in all – and several other solicitors. On the fourth floor were the offices of the Actors' Federation of Australia and the Australian Nursing Federation both of which sought Christian's legal services in later years.

On 16 September, Christian was reported as instructing solicitor in a bankruptcy case.¹²⁹ One of the barristers she briefed was Garfield Barwick. Born in 1903, Garfield Barwick attended Fort Street High before graduating in law from the University of Sydney in 1926. Admitted to the Bar in 1927, according to his biographer he had difficulty in establishing himself because of a poor family background.¹³⁰ Like many new barristers Barwick may have been grateful to accept briefs from Christian as he appeared for her clients in several cases in 1927. In the following years Christian frequently briefed recently admitted barristers. Whether this was out of sympathy for their struggles to establish themselves or because newly admitted

¹²⁵ Nairn, "The Big Fella", *op cit.*, pp 122-123.

¹²⁶ "Award for Respondents", *SMH*, 19 May 1927.

¹²⁷ "Jameson v Jameson", *SMH*, 15 June 1927, p 12.

¹²⁸ *New South Wales Law Almanac for 1928*, p110.

¹²⁹ Re Edith Janet Pratt, ex parte RF Stuart-Robertson, *SMH*, 16 September 1927; "Appeal against Taxation" Re RF Stuart-Robertson ex parte Pratt, *SMH*, 2 November 1927, p 12.

¹³⁰ Marr, *op cit.*, p 15.

barristers were more likely to accept briefs from her is moot. Some of those who accepted briefs from her in their early days would go on to become powerful friends – and opponents. Garfield Barwick was one of those who, later in his career, was often the barrister on the opposing side. After being elected to the Australian Parliament he was Attorney-General in the Menzies Government in December 1958 and was appointed Chief Justice of the High Court in 1964.

After several adjournments the bankruptcy action was finalised in Chambers on 23 December. However, the Judge in Chambers was extremely critical of the way the case had been conducted and declared that the delay and evasion which had occurred constituted gross contempt of court. He therefore ordered that the costs of the bankruptcy action be charged to C Jollie Smith and Co¹³¹. This must have been a severe blow to Christian - not only was she rebuked by the bench for her conduct of the case but she would have to use her own resources to meet the costs of the action. As this was Christian's first bankruptcy case her poor performance was probably due to lack of experience.

Meanwhile, during October she was instructing solicitor in several cases before the Courts. First were two cases involving financial instruments for one of which she again briefed Garfield Barwick on behalf of her client.¹³² On 12 October, a case involving two unpaid promissory notes was settled by agreement.¹³³ Next were two workers' compensation cases in which she again briefed Joseph Lamaro. The first case was unsuccessful¹³⁴ but the second case was successful and her client was awarded £50 with £7/7/- costs¹³⁵. In November 1927 Christian was retained by Harry Becher who was pursuing a claim against RF Stuart-Robertson.¹³⁶ Becher and Stuart-Robertson had been opposing parties in a long-running series of actions in which Christian had not previously been involved.¹³⁷ In all of these actions Becher's solicitor had been reported as John Edgley and Co but now, in November 1927, he retained Christian as his solicitor. The reasons for this change are not clear but John Edgley and Co may well have been glad to lose Becher as a client as he seems to have been

¹³¹ "Solicitors ordered to pay costs" *SMH*, 24 December 1927, p 6.

¹³² "Sale of Mortgage Security", *SMH*, 7 October 1927, p 10; 18 October 1927, p 8; 20 October 1927, p 7.

¹³³ "Uncontested cases: Lobb v Hassett", *SMH*, 13 October, p 7.

¹³⁴ "No Proper Notice", *SMH*, 28 October 1927, p 8.

¹³⁵ "Fall from Tram", *SMH*, 1 November 1927, p 8.

¹³⁶ "Writ of Attachment Application", *SMH*, 9 November 1927, p 12.

¹³⁷ "A Solicitor's Business", *SMH*, 14 August 1926, p 12.; 21 August 1926, p 12; 28 August 1926, p 12 and 25 September 1926, p 14.

very litigious. Christian, however, was not in a position to be choosy. Christian handled another unrelated case for Becher in December.¹³⁸

By the end of 1927, therefore, Christian appeared to be securing sufficient work to sustain her practice. However, it is not clear that she was making much in fees. The decision against her in the bankruptcy case must have significantly reduced whatever fees she had earned. However, she would have been able to share her living expenses with her widowed mother who moved to Sydney either late in 1927 or early 1928.¹³⁹ There is evidence to suggest that Christian was living near Snails Bay in Balmain at the time.¹⁴⁰

In 1927 there were also early signs of an economic recession. Economic growth was slowing and unemployment had increased from six per cent at the beginning of 1927 to 10 per cent by the end of the year.¹⁴¹ In early 1928, there were reported cases of disputes over legal fees.¹⁴² Writing to Nettie in April 1934 Christian referred to a 'smash in February 1928' which she attributed to the depression. However, she was able to overcome her financial plight with the assistance of some legal high flyers.

[I]t was unfortunate that just when the heavy work that should have meant heavy costs began to trot along, the financial depression happened to trot along too, so that the work and all the publicity are here in packs but the cash isn't. It was a wonderful piece of luck that I happened to associate myself and the office work with Bert Evatt and Joe Lamaro and Clancy, all of whom are now [1934] judges and Crown Ministers and so forth.¹⁴³

Herbert Vere ('Bert') Evatt was admitted to the bar on 31 October 1918 after a brilliant academic career. At this time he was a member of the New South Wales Legislative Assembly.¹⁴⁴ He would be appointed to the High Court in 1930. Joe Lamaro has already been mentioned. Clancy will soon appear. Just what was the nature of the relationship between these three and Christian's office is not clear but they may have agreed to support each other in these uncertain times. Over the next few years they were to be instructed by Christian in some very high profile cases.

¹³⁸ "Claim for rent", *SMH*, 6 December 1927, p 7.

¹³⁹ After her death the *Argus* noted that "for some time Mrs Smith had been living with her daughter, Miss Christian Smith, who practices law in Sydney." *Argus*, 16 July 1929, p 6.

¹⁴⁰ This is noted on the death certificate for Mrs Smith as "late of Snails' Bay" although at the time she died she was living at Rose Bay.

¹⁴¹ Radi, *op cit*, p 406.

¹⁴² Bennett et al, *op cit*, p 191.

¹⁴³ CJS to Nettie Palmer, April 1934, *Palmer Papers*, NLA MS 1174/1/3957.

¹⁴⁴ G C Bolton, "Herbert Vere Evatt", *ADB*, Vol 14, pp 108-114.

Despite the financial difficulties the flow of work continued. On 10 February she instructed counsel on behalf of her client who was charged with bigamy. The charge was proven and he was ordered to pay £50 to the woman he had bigamously married.¹⁴⁵ On 20 February she appeared in person in a successful uncontested divorce case.¹⁴⁶ Then in March she was again acting on behalf of Becher,¹⁴⁷ but Christian must have been becoming frustrated by the lack of success of Becher's litigation. Whether she withdrew her services or whether Becher again took his business elsewhere is not clear but she did not act for him again. In May Christian was acting on behalf of a client in an unsuccessful appealed..¹⁴⁸

Divorce and workers' compensation cases were prominent during the remainder of the year. In early July, Christian briefed Joseph Lamaro on behalf of her client in an uncontested divorce case.¹⁴⁹ Then there was gap of three months before her next reported case but there may have been other unreported cases. For example, the Minutes of a General Meeting of the One Big Union of Unemployed held on 19 July 1928, record that 'Kelly had received three months without the option' and that 'Comrade Vail moved that we protest against the lawyer defending Comrade Kelly.' The lawyer was Miss Jollie Smith who, after some debate, 'was asked to attend and give a report re the defence put up.' At the next General Meeting, held on 25 July, 'a representative of Miss J Smith, solicitor, made a statement and said that Miss Smith had met with an accident to her leg but he could give an account of the case.' The representative was Mr Thorne¹⁵⁰ who was Christian's managing legal clerk.

From the beginning of October there was a stream of cases which indicates that Christian was now successfully attracting clients although the outcomes were mixed. On 3 October, she briefed Lamaro in an unsuccessful workers' compensation case.¹⁵¹ On 4 October she briefed JS Clancy for the first time on behalf of her client in a successful application for the restitution of conjugal rights.¹⁵² John Sydney James (Jim) Clancy was another recently admitted barrister. Admitted to the Bar on 30 July 1925, he was to be appointed to the

¹⁴⁵ "Bigamy", *SMH*, 11 February 1928, p 14.

¹⁴⁶ "Arnold v Arnold", *SMH*, 21 February 1928, p 8.

¹⁴⁷ "Tarleton v Mitchell, Becher claimant", *SMH*, 2 March 1928, p 7; "Action to recover rent", *SMH*, 7 March 1928, p 12; and 31 March 1928, p 14.

¹⁴⁸ "Solicitor's Bill of Costs", *SMH*, 15 May 1928, p 5 and 16 May 1928, p 12.

¹⁴⁹ "Watson v Watson", *SMH*, 4 July 1928, p12.

¹⁵⁰ One Big Union of Unemployed, Minutes of General Meeting 19 July 1928, and 25 July 1928, *CPA Papers*, ML MSS 5021 ADD-ON 1936, Box 16.

¹⁵¹ "Award Refused" *SMH*, 3 October 1928, p 12.

¹⁵² "Coomber v Coomber", *SMH*, 5 October 1928, p 10.

District Court bench in 1931 amid some controversy.¹⁵³ Until his appointment to the bench Christian frequently briefed him on behalf of her clients. On 24 October, Christian again briefed Clancy in a successful workers' compensation case,¹⁵⁴ and on 30 October she briefed him in a case heard in the District Court.¹⁵⁵ In November, Christian acted for the respondent and co-respondent in a divorce petition¹⁵⁶ and in December she again briefed Clancy in two successful cases.¹⁵⁷

By the end of 1928 the characteristics of Christian's legal practice – mainly divorce, workers' compensation and industrial cases - were beginning to emerge and through 1929 Christian obtained a steady flow of work in these areas. In June and July Christian handled two uncontested divorce petitions in which she briefed Mrs Sibyl Morrison on behalf of her clients.¹⁵⁸ Sybil Morrison, the first woman to practice at the bar in New South Wales, was admitted to the bar on 2 June 1924 just four days before Marie Byles, the first woman solicitor in New South Wales, was admitted. Marie Byles also briefed Sybil Morrison in divorce cases.¹⁵⁹

During February and March 1929, Nettie Palmer was in Sydney on her way back from Caloundra where the Palmers had lived for several years. During her stay Nettie visited Christian in her office several times and they lunched together. They lingered so long over lunch that they arrived at the bank just as it was closing. However, Christian was equal to the task of persuading the bank staff to let them in. Nettie described the incident in her diary.

[H]alf an hour late for Christian but we yarned a while at her office then lunched at a Café Mockbell where people played dominoes and didn't hurry. We didn't hurry either and when we left to go to the savings bank it was three, closing time. Christian was a serious lawyer though and bluffed us both in; pure humbug.¹⁶⁰

There were a number of Café Mockbell coffee shops. The one located in Elizabeth Street was a place where lawyers met after, or between, cases and gossiped over coffee or a simple meal.

¹⁵³ JW Shaw, "Sir John Sydney James Clancy", *ADB*, Vol 13, p 429.

¹⁵⁴ "A Cleaners Fall", *SMH*, 24 October 1928, p 12.

¹⁵⁵ "Disputed Business Deal", *SMH*, 30 October 1928, p 7.

¹⁵⁶ "Wilson v Wilson", *SMH*, 28 November 1928, p 10.

¹⁵⁷ "Acquitted" *SMH*, 5 December 1928, p 12.

¹⁵⁸ "Phee v Phee", *SMH*, 13 June 1929, p 8; "Sartoria v Sartoria", *SMH*, 2 July 1929, p 7.

¹⁵⁹ Joan M O'Brien "Sybil Enid Vera Morrison", *ADB*, Vol 10, p 596. Ada Evans was the first woman admitted to the bar in New South Wales but she did not practice. See Joan M O'Brien "Ada Emily Evans", *ADB*, Vol 8, pp 443-444.

¹⁶⁰ Diary entry 22 March 1929, *Palmer Papers*, NLA MS 1174/16/12.

It was furnished with marble tables and leather benches and the owner provided sets of dominos for those who had time to spare.¹⁶¹

Through 1929 Christian's professional association with Jim Clancy flourished. On 22 April, she briefed him in a case before the Industrial Commission involving an internal dispute in the Sydney Branch of the Waterside Workers' Federation (WWF) in which Christian acted for several members of the union. The case was eventually settled by agreement.¹⁶² On 24 April Christian briefed Clancy in a successful workers compensation case.¹⁶³ Then on 8 May she briefed him in a successful appeal before the Court of Quarter Sessions against a conviction for having sold beer without a licence.¹⁶⁴ In July she briefed Clancy in a case before the Central Criminal Court in which her client, a Russian, was charged with the murder of his wife from whom he was separated. Christian's client was acquitted and discharged.¹⁶⁵

On 15 July 1929, Christian's mother died of pneumonia.¹⁶⁶ At the time of her death she and Christian were living at 22 Latimer Road, Rose Bay. Mrs Smith's body was returned to Victoria for burial at Brighton Cemetery where her husband was also buried. Although she refers to her father's death in a letter to Nettie in 1934, Christian never refers to her mother's death in any of her letters. What she thought and how she felt is therefore unknown. During the second law term, Christian continued to deal with workers compensation¹⁶⁷ and divorce petitions.¹⁶⁸ Her divorce clients were mainly women, perhaps because women who were considering divorce felt more comfortable seeking advice from a woman.

In early November, Christian visited Melbourne. Nettie Palmer noted in her diary that she met Christian at the Town Hall for a few minutes where they made plans to spend an afternoon together. They met the next afternoon and spent the time in Fitzroy Gardens 'yarning about nearly everything - her work as a solicitor, Lesbia Harford's posthumous poems, Theodora May, the Communist Party of Australia.'¹⁶⁹ Lesbia Harford had died in July 1927. In 1941 an edition of her poems was published with an introduction by Nettie

¹⁶¹ Marr, *op cit.*, p 17.

¹⁶² "Enforcement of Union Rules", *SMH*, 23 April 1929, p 8; "Waterside Workers' Dispute", *SMH*, 22 June 1929, p 12; 25 June 1929, p 7; "Enforcement of Union Rules", *SMH*, 29 June 1929, p 12.

¹⁶³ "Fell From Ladder", *SMH*, 25 April 1929, p 6 and 27 April 1929, p 14.

¹⁶⁴ "Appeals Upheld", *SMH*, 9 May 1929, p 5.

¹⁶⁵ "Murder Charge: Russian Acquitted", *SMH*, 3 July 1929, p 11.

¹⁶⁶ NSW Registrar of Births, Marriages and Deaths, Death Certificate, Jessie Ochiltree Smith.

¹⁶⁷ 'Domestic's claim', *SMH*, 23 August 1929, p 8.

¹⁶⁸ "Grenfell v Grenfell", *SMH*, 27 August 1929, p 8 and *SMH*, 17 December 1929, p; "Coomber v Coomber", *SMH*, 29 October 1929, p 8.

¹⁶⁹ Diary entries for 7 November and 8 November 1929, *Palmer Papers*, 1174/16/12. It is not clear who Theodora May is.

Palmer.¹⁷⁰ Perhaps Nettie discussed her plans for this publication with Christian . It would have been interesting to know what Christian might have said about the Communist Party at this time but Nettie did not record any details.

By the end of 1929, after a four year struggle, Christian's practice was still in a precarious position. However, events in the wider world had been moving in a direction that would have a significant positive impact on her practice. Coal exports were falling because production costs were too high to be competitive in world markets. The colliery owners declared that the mines would only remain open if the miners accepted wage reductions and increased hours. When the miners refused the 'great coal lockout' began. Thousands of men were out of work for up to sixteen months.¹⁷¹ By June 1929 mass picketing of mines was a daily occurrence.¹⁷² The conservative Bavin government, which had defeated the Lang Labor Government in the October 1927 State election, introduced legislation aimed at suppressing mass picketing and intimidation of workers who attempted to work the mines.¹⁷³ In November, the Bavin Government moved to take control of several mines with the intention of working them at reduced rates of pay. Bavin delayed implementation of these plans pending the outcome of a compulsory conference called by the newly elected Federal Labor Government led by Prime Minister, James Scullin.¹⁷⁴ When the Conference failed to reach any agreement, the Bavin Government moved to open three mines, Rothbury being the first. The miners resisted the attempt to open Rothbury. One miner, Norman Brown, was fatally wounded. Dozens of miners were charged with unlawful assembly. In the various court cases relating to these charges, which dragged on through 1930, Christian was retained for the defence.

¹⁷⁰ Drusilla Modjeska and Marjorie Pizer (eds), *The Poems of Lesbia Harford*, Sirius Books, 1985, Introduction by Drusilla Modjeska, p 4.

¹⁷¹ Robin Gollan, *The Coalminers of New South Wales*, MUP, 1963, p188, Miriam Dixon, "Stubborn Resistance" in John Iremonger et al, *Strikes: Studies in Twentieth Century Australian Social History*, Sydney, 1973, pp 128-131; Macintyre, "The Succeeding Age" *op cit.*, p248.

¹⁷² "Mass Picketing on Coalfields", *SMH*, June 8 1929, p 15.

¹⁷³ "Mass Picketing: Suppression of Intimidation", *SMH*, 27 September 1929, p 14.

¹⁷⁴ "To Control Mines if Compulsory Conference Fails", *SMH*, 2 November 1929, p 17.

Chapter 5: Defending the Unemployed and the Dispossessed – 1930-1933

Working for International Class War Prisoners' Aid

The impact of the Depression was hardest in New South Wales - one in five trades unionists was unemployed in 1930 rising to one in three in 1932 – and the Hunter Valley coalfields, where unemployment reached half of the male workforce, were particularly badly hit.¹ Most of the cases that C Jollie Smith and Co handled between 1930 and 1933 were the result of clashes between groups of unemployed men, many of whom were Communists, and the police as the latter attempted to subdue militant demonstrations against the employment of 'scab' labour on the northern coalfields of NSW, the eviction of unemployed families and the dole system.

Christian was involved not only in the defence of those charged over the Rothbury disturbance but also those charged after similar mass demonstrations at other northern collieries during January 1932. At Ashtonfields on 10 January around three thousand men picketed Ashtonfields colliery in an attempt to force the closure of the mine.² On 12 January, at Kurri Kurri, stones were thrown at police who were arresting William Laidlaw, a Communist, who was alleged to have made insulting remarks about police during a speech to a crowd.³ On 13 January, the NSW government decided to withhold food relief from miners who took part in mass picketing, unauthorised drilling, or insulting or obstructing police.⁴ The threat had little effect. On 15 January, two thousand miners picketed the entrance to the Abermain No 2 Colliery but were driven off by a police baton charge. On the same day, another assembly of two thousand miners at Kurri Kurri was forcibly dispersed by police. Many arrests were made.⁵ Tensions were heightened by continuing conflicts between police and miners and even affected the operation of the courts. On January 13, the coronial inquest into the death of Norman Brown was adjourned because of 'the present tense position on the coalfields.'⁶

¹ Beverley Kingston, *A History of New South Wales*, Cambridge University Press, 2006, pp 142-143.

² "Violence on the Coalfields", *SMH*, 11 January 1930, p 15.

³ "Police Stoned: Crowd at Kurri Kurri", *SMH*, 13 January 1930, p 12.

⁴ "Mass Picketing Must Cease", *SMH*, 14 January 1930, p 11.

⁵ "Police in Control: Miners' Parades Broken by Baton Charges", *SMH*, 16 January 1930, p 11.

⁶ "Norman Brown's Death: Coroner Adjourns Inquest", *SMH*, 14 January 1930, p 12.

On 14 January, a tiny paragraph in the *Sydney Morning Herald* reported that ‘the International Class War Prisoners Aid Society was prepared to stand by any man who found himself in any trouble as a result of militant activity.’⁷ The International Class War Prisoners Aid (ICWPA) was formed in Europe after the First World War to provide assistance to workers charged with offences arising from strikes and other activities in support of a better deal for workers.⁸ An Australian Branch of the ICWPA was formed at a conference held in Sydney in August 1929.⁹ Senator Arthur Rae was elected President. Initially elected to the Senate in 1910, Rae had a long history in the Labor movement. He lost his Senate seat in 1914 but was re-elected in 1928.¹⁰ Bert Moxon, a member of the Communist Party, was elected Secretary.

Mainly a fund-raising body, it was the ICWPA which retained Christian for the defence of those charged with offences on the coalfields, and later, for resisting evictions. However, raising funds was not easy as indicated by an entry in the diary of Jack Kavanagh, the former CPA General Secretary: ‘ICWPA social in Hall. Send-off to Kurri Band. Financial loss.’¹¹ In 1932, the ICWPA merged with the United Front Against Fascism¹² to form International Labor Defence. In 1933, a report to the English Section of International Red Aid acknowledged that ‘for years Miss Jolly Smith has been our sole legal defender.’¹³ As a former member of the Communist Party, and still apparently sympathetic, Christian was in a unique position to benefit for, so far as is known, there was no other solicitor in New South Wales with her political background and thus equally trusted by those, mostly Communists, involved in the ICWPA.

The first summonses relating to the disturbances at Rothbury were issued on 8 January 1930. The charges, of taking part in an unlawful assembly, arose out of the *Crimes (Intimidation and Molestation) Act 1929* enacted by the Bavin Government. The Act proscribed ‘any assembly of five or more persons whose common object is by means of intimidation or injury to compel any persons to do what he is not legally bound to do or to abstain from doing what he is legally entitled to so shall be deemed to be an unlawful assembly.’ Some of the men were additionally charged with being armed with ‘weapons likely to cause death or grievous

⁷ *SMH*, 14 January 1930, p 12.

⁸ “What is the ICWPA? International Defence”, *Workers’ Weekly*, 21 April 1926.

⁹ “ICWPA formed in Australia”, *Workers’ Weekly*, 16 August 1929, p 1.

¹⁰ Frank Farrell, “Arthur Edward George Rae”, *ADB*, Vol 11, pp 323-324.

¹¹ Entry, 3 February 1930, Diary 1930, *Kavanagh Papers*, NBAC, ANU, Z400 Box 1.

¹² Not to be confused with the Movement Against War and Fascism.

¹³ National Committee International Labor Defence to The Secretariat, ILD, English Section IRA, 21 January 1933, NAA A 467 SF42/1.

bodily harm, to wit, a bottle, a stick or stones.’¹⁴ On the same day, Communist Joe Shelley, was charged with incitement to commit murder as a result of a speech given on 8 January in which he was alleged to have told the audience to ‘go to Rothbury with rifles, revolvers and milk tin bombs, and to kill the scabs and police.’¹⁵

On 20 January, thirty-three men appeared at the West Maitland Police Court to answer charges arising from the events at Rothbury. The proceedings took place before a Police Magistrate, Mr DW Reed. Funded by the ICWPA, Christian briefed Jim Clancy to appear on behalf of the defendants. The Prosecution argued that the charges against all thirty-three men should be heard together because they arose out of the same event. Clancy objected and Reed ordered that the cases be heard separately. The first case to be heard was that of Edwin Aubin. Aubin was the leader of a local miners’ lodge, a member of the ALP, on the board of the Kurri District hospital and associated with the Workers’ Educational Association.¹⁶ Aubin had initially been charged with ‘carrying an instrument of offence - to wit, a walking stick’ but the prosecution sought to withdraw this charge and substitute a charge of unlawful assembly because ‘the police now knew that he was in the habit of carrying a walking stick.’ Clancy, briefed by Christian, argued that either the original charge should be maintained or dismissed but Reed allowed the substitution of the charge. Most of the evidence brought by the Prosecution was general and not specific to the activities of Aubin. However, the *Crimes (Intimidation and Molestation) Act 1929* provided that ‘any person who knowingly joins an unlawful assembly or continues in it shall be taken to be a member of that assembly.’ It was enough for the police to prove that there had been an unlawful assembly and that Aubin had knowingly joined it. Aubin was convicted and fined £5 with two months to pay, in default one month’s imprisonment.¹⁷ By this time, a whole day had been taken up with the hearing of one case and there were still thirty-two more to be dealt with. When the Court opened next day, Clancy consented to the remaining cases being heard together.¹⁸ Twenty men were then convicted of unlawful assembly and most were fined a hefty £20, in default three months imprisonment.¹⁹

¹⁴ “Twenty Summonses”, *NMH*, 9 January 1930, p 7.

¹⁵ “Murder Frame-up: Joe Shelley Charged”, *Workers’ Weekly*, 17 January 1930, p 1; “Communist Charged: Alleged Incitement to Crime”, *SMH*, 10 January 1930, p 14.

¹⁶ Andrew Metcalfe, *Historical Agency and Class Structure in the Coalfields of New South Wales*, Allen and Unwin, Sydney, 1988, p

¹⁷ “Recent Rothbury Disturbance: Thirty-Three Men in Court Charged Separately”, *SMH*, 21 January 1930, p 12; “Unlawful Assembly: Magistrate’s Finding on Rothbury Affray”, *NMH*, 21 January 1930, p 5.

¹⁸ “Decision Today: More Rothbury Cases”, *NMH*, 22 January 1930, p 9.

¹⁹ “Sequel to Rothbury Riot: Heavy Penalties Inflicted”, *SMH*, 23 January 1930, p 12; “£380 in fines: Men at Rothbury”, *NMH*, 23 January 1930, p 8. The weekly basic wage (that is, for unskilled workers) in NSW was just over £4 in 1930. (Commonwealth Bureau of Census and Statistics, *Year Book*, No 33, 1940.)

The following day the cases of another eleven men, charged with attempting to tear up the Rothbury colliery railway line, were heard at Cessnock Police Court. Police Magistrate Reed again presided. Clancy attempted to undermine police evidence by accusing them of collusion. Christian's legal clerk, Harry Thorne, had observed a meeting of police through a window in which a piece of paper had been circulated. The police denied collusion and Reed advised Clancy to cease that line of questioning. After hearing the evidence, Reed convicted all eleven men and fined them £10, in default two month's imprisonment.²⁰ The charge against William Laidlaw for insulting police came before Reed at the West Maitland Court on 25 January. Clancy, instructed by Christian, appeared for the defence but Laidlaw was convicted and fined. Laidlaw refused both to pay the fine and enter into a good behaviour bond and so went to gaol²¹

A senior member of the police force also found himself charged with insulting behaviour as a result of his manner towards Christian. At the end of the day's hearing at Cessnock on 23 January, Clancy approached Reed and complained 'that a sergeant of police had made an offensive remark to Miss Jollie Smith, who was instructing him.' Reed ruled that as the alleged offence took place outside the Courtroom he had no jurisdiction to deal with the matter. He advised Clancy to take the matter up privately.²² Christian promptly issued a summons against the sergeant, complaining that he had said 'You are only a dirty Red, anyhow; the sooner you get out, the better we'll like you.' Christian's complaint was heard at Cessnock on 28 January before Police Magistrate Reed. Despite supportive evidence from three senior police officers, who claimed that the words complained of were not used, Reed did not believe them. The sergeant was convicted and fined £1 with £2/2/- professional costs. Reed also apologised on behalf of the sergeant as he 'must have allowed his feelings of the moment to carry him away.'²³

The next case to come before the West Maitland Police Court was the charge of incitement to murder against Joe Shelley. Again Reed presided. With funding support from the ICWPA, Christian again instructed Jim Clancy for the defence. Despite Clancy's vigorous defence, Reed concluded that 'in normal times such expressions might be regarded as the vapourings of a Communist, but at times like the present they inflamed the minds of excited people.'

²⁰ "Fines of £10: Railway Cases", *NMH*, 24 January 1930; p 10; "Miners Charged: Tearing up Railway Line", *SMH*, 24 January 1930, p 11.

²¹ "Insulting Words: Communist fined and bound over", *NMH*, 25 January 1930, p 10; "Communist fined: Insulting Language To Police", *SMH*, 25 January 1930, p18.

²² "Fines of £10: Railway Cases", *NMH*, 24 January 1930; p 10.

²³ "Police in the Dock: IWCPA Puts Up True Working-Class Fight", *Workers' Weekly*, 31 January 1930, p1.

Shelley was sentenced to two months imprisonment and was also required to enter an undertaking to be of good behaviour for twelve months, in default a further three months imprisonment. Shelley, however, refused to accept a good behaviour bond and was gaoled for five months.²⁴

Christian and Jim Clancy next turned to the defence of the men who were charged with mass picketing of Abermain colliery on 15 January 1930. Ninety-four participants, out of around one thousand who had picketed the mine, appeared before the Kurri Kurri Police Court on 5 February before Police Magistrate Reed. Clancy argued that, since the President of the Shire Council had given permission for the procession, it was not unlawful. The Crown Prosecutor responded that the President did not have the power to grant permission and that, even if he did, the permission granted was not in the proper form. Reed was satisfied that there was sufficient evidence to support the charges and, on 7 February, he convicted eighty-six men. Four were given the benefit of the doubt and one charge was withdrawn. Fines ranged from £3 to £5, in default one to three months imprisonment.²⁵ During the hearing of the Abermain cases, it was announced that appeals had been lodged on behalf of the men convicted of unlawful assembly at Rothbury. The hearing was set down for 24 February.²⁶

Life now became quite complex for Christian - she was instructing solicitor in cases before different courts some distance apart - one at Newcastle and one at Wallsend - while her counsel, Jim Clancy, had been retained as counsel by the solicitors for Brown's relatives and the Miners' Federation and was appearing at the inquest into the death of Norman Brown which opened on 10 February. The hearing of charges of unlawful assembly against thirty-one men, arising from picketing at the John Darling Colliery on 15 January, commenced on 12 February in the Newcastle Police Court.²⁷ This time the magistrate was Mr JB Gibson. Clancy contended that the police evidence disclosed no offence as it had not been proved that the common object was to intimidate nor had there been evidence of physical injury. However, Gibson ruled that there had been intimidation and that it was the common object of

²⁴ "Five Months Gaoled: Communist in Court", *NMH*, 25 January 1930, p 10; "Joe Shelley, Communist Organiser, Gaoled", *Workers' Weekly*, 31 January 1930, p 1.

²⁵ "94 defendants: Unlawful Assembly Charges", *NMH*, 6 February 1930, p 9; "Abermain cases: Unlawful Assembly Charges", *NMH*, 7 February 1930, p 11; "Cases Proved: Assembly at Abermain", *NMH*, 8 February 1930, p 10.

²⁶ "Convicted Miners Appealing", *SMH*, 12 February 1930, p 12.

²⁷ "The Shooting: Instructions to Police", *NMH*, 13 February 1930, p 5.

the men assembling in such large numbers. Twenty-eight miners were convicted and fined £3 in default one month's imprisonment.²⁸

The hearing of the case against seventy-three men charged with unlawful assembly at Ashtonfields on 10 January began at Wallsend Police Court on 18 February while the case against those charged with picketing John Darling Colliery was still in progress. Once again Christian briefed Clancy for the defence. However, when the Wallsend Police Court opened it was Christian who addressed the court in an attempt to persuade the Magistrate, DW Reed, to withdraw from the case on the grounds of bias. Christian argued that 'there have been 150 cases tried by your Worship and 150 convictions. Prohibitions and appeals have been lodged on advice of counsel. My clients think that public confidence in the judiciary would be restored if these cases were not tried by you.' The Magistrate declared that he was 'absolutely without bias. The facts placed before me will receive all the consideration facts can receive.' Christian then sought a short adjournment in order to receive instructions from her clients which was granted. After consulting her clients Christian withdrew from the case and a solicitor from Newcastle was retained on their behalf.²⁹

The next case in which Christian and Clancy were involved was the defence of William Orr, a Communist, on a charge of incitement to murder. Reed was again the presiding magistrate. Several members of the police gave evidence that they had attended a street meeting of the Communist Party and heard Orr urge that the miners should arm themselves so that they could 'meet the armed forces of the State.' In his defence Orr claimed that he had been interrogated for an hour at the police station where he was told he would not be charged if he stayed away from the area which he refused to do. He was then charged. After several witnesses gave evidence for the defence to the effect that Orr had not been urging violence but merely recounting his army experiences, the Magistrate discharged the defendant on the grounds that 'he had a doubt on the evidence that he did incite to the commission of a crime.'³⁰ Christian must have been pleased to have at last obtained a positive decision for her client from this magistrate.

²⁸ "No Violence: John Darling Miners' Unlawful Assembly", *NMH*, 18 February 1930, p 8; "'No-one to Work': John Darling Colliery", *NMH*, 19 February 1930, p 5; "Convicted: John Darling Miners", *NMH*, 20 February 1930, p 8.

²⁹ "Bias Charge Refuted: Magistrate Refuses to Retire from Court", *NMH*, 19 February 1930, p 5; "ICWPA Solicitor 'Tells Off' Magistrate", *Workers' Weekly*, 14 March 1930, p 4.

³⁰ "Communist's Speech: Inciting to Murder Alleged", *SMH*, 26 February 1930, p 15.

Back in Sydney, Christian was kept busy by a number of summary cases as well as preparing for the appeals in the coalfields cases. On 27 February, she appeared on behalf of two men charged with assaulting a police officer during a demonstration on 26 February in which around three hundred unemployed had marched on Parliament House. Christian's clients were remanded for 14 days with bail fixed at £100,³¹ a daunting sum for them to raise. Then on 29 February, on behalf of the eighty-three defendants found guilty in the Abermain Colliery case, she applied for an injunction restraining DW Reed, now a Stipendiary Magistrate, from proceeding with the convictions. The injunction was granted, to be heard at the same time as the other appeals.³² On 6 March the Full Supreme Court began to hear the appeals of the men convicted of unlawful assembly at Rothbury. Christian briefed Dr HV Evatt KC together with Jim Clancy to appear for her clients.

The appeal of Edwin Aubin was heard first. Dr Evatt argued that there was insufficient proof of an unlawful assembly and that the common object of the assembly had not been shown to be the object mentioned in the legislation.³³ The Court reserved its decision and proceeded to hear the appeals brought by the remaining men.³⁴ In these appeals, citing NSW Supreme Court precedent, Dr Evatt argued that the convictions were wrong in law on the grounds that the defendants were tried conjointly; their convictions did not sufficiently describe the charges and that, in one case, the Magistrate imposed a sentence that exceeded the maximum allowed. At the conclusion of legal argument, the Court again reserved its decision.³⁵

While waiting for a decision on the miners' appeals Christian was busy with cases arising from the unemployed demonstration on 26 February. On March 13, she appeared in the Central Police Court on behalf two men and two women, Beryl Glendinning and Joyce Barrington, who had been charged with taking part in an unlawful procession. Joyce Barrington was a member of the Communist Party³⁶ and Beryl Glendinning may have been one as well. Their defence was that there had been no procession but the Magistrate was satisfied that they had intended to take part in a procession which they knew was unlawful. All four of Christian's clients were convicted and fined £2 in default four days imprisonment. They decided that they would go to gaol rather than pay the fines.³⁷ The following day Beryl

³¹ "Unemployed Riot: Seven Persons Charged", *SMH*, 28 February 1930, p 8.

³² "Abermain Cases: Conditions challenged", *NMH*, 1 March 1930, p 9.

³³ "Coalfields Cases: Appeal to Full Court", *NMH*, 7 March 1930, p 9.

³⁴ "Miners' Appeals", *SMH*, 11 March 1930, p

³⁵ "Miners' Appeals", *SMH*, 12 March 1930, p 12.

³⁶ "Communists", *NSW Parliamentary Papers 1930-31-32*, Part 1.

³⁷ "Unlawful procession: Communist Explains his Principles", *SMH*, 14 March 1930, p 7.

Glendinning and Joyce Barrington were again in the Central Police Court on charges of riotous behaviour. Barrington was also accused of using indecent language. Christian briefed Jim Clancy to appear on their behalf. The women denied riotous behaviour and the use of indecent language. On the question of riotous behaviour the Magistrate gave the women the benefit of the doubt but he convicted Barrington of using indecent language and fined her £2, in default four days gaol. He deplored her decision to go to gaol rather than pay the fine.³⁸

On 28 March, the Supreme Court handed down its decision on the miners' appeals. The appeal by Aubin was dismissed but the appeals by the remaining miners, whose cases were heard conjointly, were upheld. However, in giving the decision, the Chief Justice commented that he would be glad to see this situation reviewed either by a higher authority or by Parliament.³⁹ The NSW Crown Solicitor took the Chief Justice's hint and appealed to the High Court which began hearing the appeal in Sydney on 15 April. Christian again briefed Dr Evatt and Clancy on behalf of her clients. In its decision, the High Court overturned the decision of the NSW Supreme Court which meant that the convictions against all of the men charged with unlawful assembly at Rothbury and Abermain were sustained. However, that was not to be the end of the matter. An application was made for a stay of proceedings while leave was sought for an appeal to the Privy Council.⁴⁰

The motive behind the proposed appeal to the Privy Council appears to have been a deliberate strategy to prevent the execution the sentences and fines against the convicted miners until after the State elections which were to take place on 25 October. In a letter to Maurice Blackburn, the Melbourne-based lawyer and socialist politician,⁴¹ seeking his help when it appeared that the hearing of their application for leave to appeal to the Privy Council would be held while the High Court was sitting in Melbourne, Christian explained the strategy.

[T]he ICWPA, who instructed me in all the coalfields cases, have now instructed me to attempt to hold up the cases further by appealing to the Privy Council... You will understand that the idea is to hold up the convictions until after the elections when everyone supposes that Labor will get in and that will be the end of the whole thing.

³⁸ "After the Procession: Alleged Riotous Behaviour", *SMH*, 15 March 1930, p 12.

³⁹ "Miners' Appeals", *SMH*, 29 March 1930, p 13.

⁴⁰ "Rothbury Riots", *SMH*, 15 August 1930, p 7; "Workers! ICWPA Appeal", *Worker's Weekly*, 17 October 1930, p4.

⁴¹ Susan Blackburn Abeyasekere, "Maurice McCrae Blackburn", *ADB*, Vol 7, pp 310-312.

The prosecution, aware of this manoeuvre, tried to get an early hearing. Christian also warned Blackburn that he might not be paid for his assistance as there had been ‘stupendous difficulty in raising any cash as the [Miners’] Federation has not been behind the men’. However, the Federation had now promised to help because ‘they see the advantage of stalling just at this juncture and possibly saving the paying of many hundreds of pounds in fines, or many more hundreds of pounds in maintenance of families while the men are doing their time.’⁴² The Miners’ Federation had promised £20 in support of the appeal but then tried to withdraw their support. On 10 October, Christian wrote to the Treasurer of the Miners’ Federation, J Kellock, to explain that she could not agree to his suggestion ‘that the whole matter of the Privy Council should be waived’ because it was too late to do so.⁴³ Christian indicated that she had already incurred costs totalling more than £20 and sought immediate payment of the amount promised.

Meanwhile, the appeals of the miners convicted of being involved in an unlawful assembly at the Ashtonfields Colliery were heard at Maitland Court of Quarter Sessions before Judge Sheridan on 25 and 26 September. Again Jim Clancy was briefed by Christian. After two miners’ appeals had been heard it was agreed that the depositions of the other appellants would be submitted to Judge Sheridan who would adjudicate on that basis. Judge Sheridan handed down his decision the following day. He upheld the convictions but reduced the penalties, giving the men two months to pay.⁴⁴ In this case, Clancy’s fees were paid from an advance of £50 made by the miners’ Aberdare Lodge.⁴⁵

At the NSW State election held on 25 October, the Labor Party won fifty-five out of a possible ninety seats. Jack Lang was once again Premier of NSW. Joe Lamaro, whom Christian had often briefed, was appointed Minister for Justice. The change of government had an immediate impact on convictions for unlawful assembly on the coalfields. On 7 November Lamaro approved the remission of all penalties still outstanding in these cases. On 10 November, the application to the High Court for a stay of proceedings in the coalfields convictions pending an appeal to the Privy Council was also withdrawn.⁴⁶ The appeals of 114 miners whose cases had been stood over pending the decision of the High Court in the Crown appeal in the Rothbury and Abermain cases came before the Supreme Court on 18 November.

⁴² CJS to Maurice Blackburn, 22 September 1930, *P T Thorne Papers*, NBAC, ANU, P15, Folder 10A.

⁴³ CJS to J Kellock, 10 October 1932, “P T Thorne Papers”, *op cit*.

⁴⁴ ‘Unlawful Assembly: Main convictions upheld’, *SMH*, 26 September 1930, p 12 and 27 September 1930, p 19.

⁴⁵ J Shelley to CJS, “P T Thorne Papers”, NBAC, *op cit*.

⁴⁶ “Coalfields Convictions”, *SMH*, 11 November 1930, p 6.

Dr Evatt and Jim Clancy had been briefed by Christian to appear for the appellants. Dr Evatt explained to the Court that the Crown had remitted the fines and sentences and the appeals were struck out.⁴⁷

After the State election there was a further exchange of correspondence between Christian and Kellock over the promised funds.⁴⁸ Christian replied somewhat testily on 29 October referring Kellock to her letter of 10 October ‘and in recapitulation’ outlined the steps taken in preparing an application for a stay of proceedings in the High Court. The letter provides a glimpse of the ‘behind the scenes’ work that Christian did in support of these cases.

I obtained the necessary documents from the High Court Registry and gave an undertaking that they should be paid for before being used in the proceedings...In the meantime, affidavits were prepared and we instructed our agents in Melbourne to make the application. However, before doing so, the money for these judgements had to be paid and until it is paid the application could not be proceeded with...The whole matter was in abeyance until the undertaking I was given was honoured and the money paid...I again press on you the necessity of forwarding an amount of £20 at your earliest.⁴⁹

It is not clear whether the Miners’ Federation ever did forward the money. On 25 October, Maurice Blackburn wrote to Christian asking ‘whether there was any possibility of recovering out of pocket expenses amounting to £1/5/- ...but we are prepared to overlook this in the circumstances.’⁵⁰ Christian responded on 4 November assuring him that ‘we are assured of an amount on account of out-of-pocket expenses in the course of the next few days and will forward the amount mentioned by you then.’⁵¹

While the miners’ cases wound their way through the courts, Christian was also handling more routine cases. Christian briefed counsel on behalf of her clients in uncontested divorce petitions on 15 April,⁵² 3 May⁵³ and 30 June⁵⁴ and in a contested divorce case heard on 25 June.⁵⁵ Christian briefed Sibyl Morrison in two more uncontested divorce cases, heard on 28

⁴⁷ “Coal Disputes Echo”, *SMH*, 19 November 1930, p 10.

⁴⁸ J Kellock to CJS, 27 October 1930, “P T Thorne Papers”, *op cit*.

⁴⁹ CJS to J Kellock, 20 October 1930, “P T Thorne Papers”, *op cit*.

⁵⁰ Maurice Blackburn to CJS, 25 October 1930, “P T Thorne Papers”, *op cit*.

⁵¹ CJS to Maurice Blackburn, 4 November 1930, “P T Thorne Papers”, *op cit*.

⁵² “Partridge v Partridge”, *SMH*, 16 April 1930, p 12.

⁵³ “Crutcher v Crutcher” and “Edwards v Edwards”, *SMH*, 14 May 1930, p 12.

⁵⁴ “Wallace v Wallace”, *SMH*, 1 July 1930, p 7.

⁵⁵ “Rena v Rena”, *SMH*, 26 June 1930, p 8; “Rena v Rena”, *SMH*, 1 August 1930, p 10.

July and 8 August.⁵⁶ At the end of August, Christian again briefed counsel on behalf of her client when the Crown Solicitor intervened to have a *decree nisi* which had been granted to her client's husband rescinded. The Crown Solicitor had the right to intervene in divorce cases where there was evidence of collusion or where material facts had not been presented to the Judge in Divorce. Her client's husband had petitioned for, and been granted, a divorce on the grounds of desertion by non-compliance with a decree for restitution of conjugal rights. The Crown Solicitor successfully sought to overturn the *decree nisi* on the ground that the husband had himself committed adultery during the time that the case was pending and since the decree had been granted.⁵⁷ Over the next ten years Christian handled, on average, ten divorce petitions per year. Most of them were uncontested but they provided a steady flow of work and income throughout the year.

Christian was not just handling divorce cases. On 22 July, Christian briefed Clive Evatt for the first time on behalf of a client who successfully appealed against a conviction for vagrancy.⁵⁸ Clive Evatt was Dr HV Evatt's younger brother. He graduated in law at the University of Sydney and was admitted to the bar on 6 May 1926. A member of the NSW branch of the ALP he would be elected to the NSW Parliament in 1939.⁵⁹ He became Christian's principal barrister after Jim Clancy was appointed to the District Court bench in 1931.⁶⁰ Described as 'brainy but erratic'⁶¹ he was to let Christian down on at least one occasion.

On 13 August, she appeared in person in on behalf of fifteen unemployed men who were arrested on 25 July for taking part in an unauthorised procession in Parramatta Road, Camperdown. The men were part of a hunger march in which several groups of unemployed from outlying districts attempted to march into Sydney in support of their demands 'for work or wages.' At least two of those arrested were previous clients - Joseph Shelley and William Laidlaw. The arrested marchers were remanded until 13 August, with bail being set at £10 with a similar surety.⁶² When their cases came before the Newtown Police Court, the charge

⁵⁶ "Kennedy v Kennedy", *SMH*, 29 July 1930, p 5; "Smith v Smith", *SMH*, 9 August 1930, p 9.

⁵⁷ "Quinn v Quinn", *SMH*, 28 August 1930, p 6.

⁵⁸ "Testing Vagrancy Act", *SMH*, 23 July 1930, p9; "Vagrancy Appeal Succeeds", *SMH*, 16 August 1930, p9.

⁵⁹ Heather Radi, Peter Spearritt and Elizabeth Hinton, *Biographical Register of the New South Wales Parliament*, ANU Press, 1979, pp 88-89; *NSW Law Almanac*.

⁶⁰ JW Shaw, "Sir John Sydney James Clancy", *ADB*, Vol 13, p 429.

⁶¹ Christopher Cunneen, *William John McKell: Boilermaker, Premier, Governor-General*, UNSW Press, 2000, p 132.

⁶² "Unemployed March into City", *SMH*, 26 July 1930, p 15. These marches took place two years earlier than similar marches in Britain. See Noreen Branson and Margot Heinemann, *Britain in the Nineteen Thirties*, Weidenfield and Nicholson, 1971, Ch 3.

against Laidlaw was dismissed because the Magistrate was uncertain about whether he had taken part in the procession. The remaining men were fined ten shillings in default 24 hours imprisonment. They all refused to pay and were taken to Long Bay Gaol.⁶³

New fronts in the class war

On 28 July 1930, a group of unemployed men wrecked a house in Clovelly. An unemployed musician, behind in his rent, had been evicted and the raid was in retribution for the landlord's action. The background to the anti-eviction campaign has been well-described by Nadia Wheatley.⁶⁴ A high proportion of unemployed workers were renters. The dole in New South Wales made no provision for rent making it difficult to maintain regular payments. Often only the first week's rent was paid. Even though many rental houses were empty, and landlords were not certain of securing a new paying tenant, hundreds of evictions were carried out. Many such evictions were opposed by members of the Unemployed Workers Movement which was established by the CPA in 1930.⁶⁵

Those responsible for the wreckage at Clovelly had escaped before the police arrived on the scene. However, the police raided the Communist Hall and, after a fight, selected a number of men and arrested them. On 12 August, seventeen men were charged in the Central Police Court with malicious damage to property to the value of £40. Christian appeared in person for their defence. Police Constable Neville gave evidence that he had been at a meeting at the Communist Hall on 28 July when there was a call for twenty men to smash the house. He followed them to the house and observed their actions for five minutes. Two of the men, additionally charged with inciting the others, were sentenced to six months hard labour.⁶⁶ The hearing of the remaining charges was adjourned until October. When these came before the Court of Quarter Sessions on 20 October twenty-two men were in the dock. Again funded by the ICWPA, Christian briefed Mr Kinkead⁶⁷ to appear on behalf of her clients but the hearing was again adjourned.⁶⁸ When the cases finally came to court the government had changed.

⁶³ "Long Bay Preferred", *SMH*, 14 August 1930, p 6.

⁶⁴ Nadia Wheatley, "Meeting them at the door: radicalism, militancy and the Sydney anti-eviction campaign of 1931", in Jill Roe (ed), *Twentieth Century Sydney: Studies in Urban and Social History*, Hale and Iremonger, Sydney, 1980. See also Nadia Wheatley, *The Unemployed Who Kicked: A Study of the Political Struggles and Organisations of the New South Wales Unemployed in the Great Depression*, unpublished MA Thesis, Macquarie University, 1975.

⁶⁵ Stuart Macintyre, *The Reds*, p 191.

⁶⁶ "Clovelly Outrage: Communists Charged", *SMH*, 13 August 1930, p 10.

⁶⁷ James John Benedict Kinkead who was admitted to the bar on 7 September 1925 (*NSW Law Almanac*).

⁶⁸ "Clovelly case", *SMH*, 21 October 1930, p 5.

The hearing of the Clovelly cases proceeded on 18 November. One of the men charged denied that he was at the house because he was at a meeting of the Shearers' Strike Committee. Senator Rae gave evidence in support of his alibi.⁶⁹ The prosecution tried to discredit Senator Rae's evidence by questioning him about his sympathies for the Communists but he responded that 'he did not sympathise with them sufficiently to concoct a lie on their behalf.' All twenty-one men were found guilty of malicious damage. Sentences ranged from eight months' imprisonment to two-year bonds.⁷⁰ The *Workers' Weekly* took up the cause of the convicted men, claiming that the evidence of Constable Neville had been perjured and castigating the newly-elected Labor Government for supporting the capitalists.⁷¹

Earlier, on 8 November, the Communists had celebrated the thirteenth anniversary of the Russian Revolution with a demonstration outside the Sydney Town Hall. The Friends of the Soviet Union (FOSU) had sought permission to use the Town Hall itself for their celebration but were refused. Notwithstanding the refusal, the FOSU arranged for the anniversary to be celebrated on the streets outside. After the demonstration, those present formed a procession to the Trades Hall. The procession was met by a strong contingent of police and ten demonstrators were arrested. Among those arrested was Christian's legal clerk, Harry Thorne. Christian briefed Jim Clancy to appear in the Central Police Court on behalf of those arrested. They were remanded until 18 November, bail being set at £10.⁷² Two days later, on 12 November, Christian briefed Jim Clancy on behalf of the *Workers' Weekly*. John O'Connor, a prominent trade unionist sought leave to sue the newspaper for criminal libel. The *Workers' Weekly* had described O'Connor as 'a pimp and police agent' and as a result he had lost various positions in the trade union movement. The *Workers' Weekly's* defence argued that civil not criminal avenues were available if redress should be pursued. However, the Judge granted the application for leave to sue but cautioned O'Connor that he was taking on a heavier burden of proof than if he took civil proceedings.⁷³

The charges against Harry Thorne and others were heard in the Central Police Court on 26 November. Among the list of twenty men and four women were Joyce Barrington and the writer Jean Devanny who joined the Communist Party shortly after this incident.⁷⁴ Christian had previously acted on behalf of Joyce Barrington but in this case Barrington and Devanny

⁶⁹ "Raid on House: 21 Men Charged", *SMH*, 19 November 1930, p 10.

⁷⁰ "Hunger Strike: Threat By Communists", *SMH*, 22 November 1930, p 15.

⁷¹ "Perjured Evidence Sends Workers to Jail", *Workers' Weekly*, 28 November 1930, p 1.

⁷² "Communists: Disorderly scenes - Ten arrests", *SMH*, 8 November 1930, p 13 and 11 November 1930, p 6.

⁷³ "Alleged Criminal Libel", *SMH*, 13 November 1930, p 6 and 20 November 1930, p 6.

⁷⁴ Carole Ferrier, *Jean Devanny: Romantic Revolutionary*, Melbourne University Press, 1999, p 70.

appear to have unsuccessfully defended themselves and spent four days in gaol. Christian briefed Jim Clancy to appear on behalf of her clients Harry Thorne and David Williams. Williams and Thorne were also charged with having assaulted a policeman. Harry Thorne testified that he was not a Communist and that on the night in question he saw a policeman kick Williams and he went to his (Williams) defence. The charges of unlawful assault against Thorne and Williams were dismissed.⁷⁵

On the day of the opening of NSW Parliament on 25 November, three hundred unemployed marched on Parliament House but were prevented from reaching the building by the deployment of police in Macquarie Street. The marchers proceeded behind Sydney Hospital to the entrance of the Botanic Gardens where a small deputation was allowed to approach Premier Lang. When the deputation returned with the news that the Premier had refused to see them, the demonstrators attempted to march up the steps of Parliament House but were met by a police baton charge. Four police were injured and thirteen demonstrators were arrested. Among those arrested was Herb Moxon, Secretary of the Communist Party. Most of those charged in relation to the demonstration represented themselves when their cases were dealt with in the Central Police Court on 2 December.⁷⁶ Moxon's case, however, came before the Central Police Court on 19 December. Christian appeared in his defence. Moxon was charged with assaulting a policeman, convicted and fined £2, in default eight days imprisonment. When the Magistrate suggested that he enter into a good behaviour bond, Christian responded that 'the organisation to which Moxon belonged would not allow any of its members to be bound over.'⁷⁷

Meanwhile the *Workers' Weekly* campaign on behalf of the men convicted and gaoled in the Clovelly case continued. The Government responded by establishing a commission of inquiry.⁷⁸ With funds provided by the IWCPA, Christian again briefed Mr Kinkead to appear at the inquiry on behalf of the convicted men. The inquiry heard evidence that supported claims that three of the convicted men could not have been present at Clovelly at the time of the attack. When the evidence was completed the Commissioner said he would forward his report to the Governor through the Minister for Justice.⁷⁹ The report was never made public but two of the men were released from Long Bay Gaol. A newspaper report on 19 February

⁷⁵ "Street Procession: Men and Women Charged", *SMH*, 26 November 1930, p 11.

⁷⁶ "Macquarie Street Riot: Nine men and women fined", *SMH*, 3 December 1930, p 10.

⁷⁷ "Communist Riot: A Further Conviction", *SMH*, 20 December 1930, p 12.

⁷⁸ "The Clovelly Case: Inquiry opened", *SMH*, 1 January 1931, p 2.

⁷⁹ "Clovelly Case: Magistrate's Inquiry", *SMH*, 7 January 1931, p 9 and 8 January 1931, p 4; "Clovelly Frame-up", *Workers' Weekly*, 9 January 1931, p 6.

revealed that the Executive Council had approved the release of these men on the grounds the evidence raised reasonable doubt as to their guilt.⁸⁰

After several hectic months, Christian's legal practice acquired a more sedate pace after the outcome of the Clovelly inquiry was known. Nearly all of the cases she handled over the next four months involved divorce. In three uncontested divorce cases in she instructed Sibyl Morrison on behalf of her clients. In one case, her client was Hetty Ross (née Weitzel), an organiser in the Women's Department of the CPA, who petitioned for divorce from her husband, Hector Ross, on the grounds of desertion by non-compliance with an order for restitution of conjugal rights.⁸¹ In May, Christian appeared in the Court of Quarter Sessions on behalf of a postal worker charged with stealing money from a letter. Her client was convicted and sentenced to one month's imprisonment.⁸²

On 11 May 1931, trouble broke out amongst the unemployed outside the dole office at Bulli on the South Coast. A picket-line was placed outside the office after a meeting of unemployed condemned the requirement that a police officer be a member of the relief committee. When a police sergeant attempted to arrest one of the picketers he was attacked by 'a crowd of men, the ring-leaders of whom were recognised as Communists'.⁸³ Ten men were arrested and charged with assault causing grievous bodily harm. Similar demonstrations were attempted at Port Kembla and Wollongong dole offices the next day but there was a strong police presence.⁸⁴ The ICWPA took up the cases of those arrested after the Bulli demonstration and Christian was retained for the defence.⁸⁵ The cases were scheduled to be heard at Wollongong Quarter Sessions in October but in mid-September, to the surprise of many, the charges were reduced to common assault and were to be heard locally.⁸⁶ Jack Kavanagh assisted with the collection of statements for the defence. 'George called in car about 6:30. [Abram] Landa and a youth from Jollie Smith's office named Courtney were also in the car. Arrived Wollongong CP rooms about 9 am. Were there until 1.30 pm taking statements. Had lunch in Wollongong and left for Bulli. Took statements.'⁸⁷

⁸⁰ "Clovelly cases: Magisterial Report", *NMH*, 19 February 1931, p

⁸¹ "Ross v Ross", *SMH*, 3 March 1931, p 5. The other cases were "Mason v Mason", *SMH*, 3 March 1931, p 5 and "Morris v Morris", *SMH*, 21 April 1931, p 5.

⁸² "Postal Official Sentenced", *SMH*, 6 May 1931, p 8.

⁸³ "Serious Riot at Dole Office", *SMH*, 12 May 1931, p 9.

⁸⁴ "The Riots", *SMH*, 12 May 1931, p 11.

⁸⁵ "Notes on cases for the ICWPA", *PT Thorne Papers*, NBAC, ANU, P15/8.

⁸⁶ "Bulli Riot: Cases Removed from Quarter Sessions", *SMH*, 17 September 1932, p 9.

⁸⁷ Entry for 24 September 1931, *Diary/Notebook 1929-1932*, *Kavanagh Papers*, NBAC, ANU, Z400, Box 1. Courtney was one of Smith's clerks.

The cases came before Bulli Police Court on 13 September. Christian had briefed Mr Francis (Frank) Dwyer⁸⁸ to appear on behalf of the accused. Born in 1902 and admitted to the bar in 1927,⁸⁹ Dwyer was one of several lawyers who were later members of the so-called 'Evatt Brains Trust'.⁹⁰ Others were Jock McClemens, John Kerr, Marcel Pile, Jack Brennan and Tom Parsonage all of whom Christian briefed at one time or another. On the first day of the Bulli Court case, Dwyer cross-examined on behalf of one of the accused men who was convicted and sentenced to six months hard labour. On the following day Dwyer challenged the Magistrate hearing the cases and sought his replacement on the ground that he was potentially biased. When Dwyer's challenge was dismissed he withdrew from the case. The trials of the remaining accused proceeded over their protests. All were convicted but lodged appeals against their conviction.⁹¹ The appeals were heard in the Wollongong Court of Quarter Sessions in March 1932. Several of the accused withdrew their appeals and the convictions of the remaining men were upheld.⁹²

The anti-eviction campaign flared again in a series of dramatic confrontations during June 1931. On 17 June, at a house in Brancourt Avenue, Bankstown, forty policemen attempting to implement an eviction order fought a pitched battle with sixteen men who were defending the house. Most of the participants were injured and damage to the house was estimated at £150. All of the defenders were arrested and charged. Two days later another anti-eviction battle took place at 143 Union Street, Newtown. Nineteen men were arrested and charged. The men were remanded in custody pending the hearing of the charges.⁹³ The NSW Government's response to the anti-eviction demonstrations was announced on 22 June. Joe Lamaro, now the Attorney-General, announced that a Fair Rents Amendment Bill would be introduced in Parliament. The Bill would provide that 'genuine unemployed, with families, cannot be evicted from a house for non-payment of rent.' A tribunal would be established to deal with applications for a rent moratorium.⁹⁴ This did little to prevent further anti-eviction activity for on 29 June a house at Glebe was raided by police acting on information that the house was occupied by anti-evictionists. When the house was raided it found to be empty but severely damaged. Two men, Henry Gee and Robert Brechin, who were in the yard, were

⁸⁸ Blanche D'Alpulget, *Mediator: A Biography of Sir Richard Kirby*, MUP, 1977, pp 24-28). Smith frequently briefed this group of lawyers.

⁸⁹ *Who's Who 1944*, p 315.

⁹⁰ Blanche D'Alpulget, *op cit*.

⁹¹ "Bulli Disturbance", *The Illawarra Mercury*, 16 October 1931, no page numbers.

⁹² "Wollongong Quarter Sessions", *The Illawarra Mercury*, 4 March 1932.

⁹³ "Desperate Fighting: Communists and Police", *SMH*, 20 June 1931, p 13.

⁹⁴ "Fair Rents Bill to Prevent Evictions", *SMH*, 23 June 1931, p 9.

arrested. Gee was the former tenant of the property. Both were charged with malicious damage and committed for trial, bail being set at £100.⁹⁵

The men charged over the anti-eviction demonstration at Bankstown came before the Central Police Court on 8 July. Christian appeared in person on their behalf. They were charged with 'resisting police in the execution of their duty' or, alternatively, 'obstructing the police' and committed for trial. Bail was set at £80. In the following week, nineteen men charged in relation to the Newtown anti-eviction demonstration came before the Newtown Police Court. Christian again represented the defendants in person. They were charged with 'common law riot' and committed for trial in August. Bail was again set at £80 in each case. The ICWPA raised the funds to meet the 'exorbitant bail and obtain their release from custody.'⁹⁶ The Newtown anti-eviction case provides another glimpse of the 'behind the scenes' work that Christian did. She took written statements from the accused men and from witnesses and prepared them as court documents. Jack Kavanagh assisted Christian in drafting the statements. On 26 August, Christian negotiated with the Clerk of the Peace regarding the timing of the hearing.⁹⁷

The charges against Brechin and Gee were heard on 28 August before a jury. Christian briefed William Sheahan, another NSW Labor lawyer who would be elected to the NSW parliament in 1941,⁹⁸ to appear on behalf of her clients. After hearing the evidence, the Judge summed up by saying that either the Brechin and Gee or the police were lying. The jury acquitted the men. According to Jack Kavanagh, Ray Everitt was the foreman of the jury.⁹⁹ Everitt would have been well-known to Christian because he was present at the founding meeting of the Communist Party of Australia and, along with Christian, was a member of the committee charged with drafting its programme and principles.¹⁰⁰ However, these connections seem to have escaped the prosecution. In this case, there is information available which provides some idea of the costs of conducting the defence of those charged over anti-eviction demonstrations. The fee for Sheahan's services was £6/6/-.¹⁰¹

⁹⁵ "House Wrecked: Two Men Committed for Trial", *SMH*, 15 July 1931, p9.

⁹⁶ "ICWPA Protects Victims", *Workers' Weekly*, 3 July 1931, p 3.

⁹⁷ Newtown File, *P T Thorne Papers*, NBAC, ANU, P15/ 8.

⁹⁸ William Francis Sheahan was born in 1895. He worked in the NSW Crown Law Department until 1930 when he was admitted to the bar. He was elected to the NSW Legislative Assembly in 1941. David Clune, "William Francis Sheahan", *ADB*, Vol 16, pp 222-223.

⁹⁹ Entry, 28 August 1931, *Diary/Notebook 1929-1932*, *Kavanagh Papers*, NBAC, ANU, Z400, Box 1.

¹⁰⁰ Stuart Macintyre, "The Reds", *op cit*, pp 13, 22.

¹⁰¹ Notice of Fees for Mr W F Sheahan, 2 September 1931, *PT Thorne Papers*, NBAC, ANU, P15/9.

The trial of the men charged after the Newtown anti-eviction demonstration took place in the Darlinghurst Court of Quarter Sessions on 7 September. Funded by the ICWPA, Christian briefed Clive Evatt to appear on behalf of the defendants. The accused were each allowed to challenge up to eight proposed jurors. In the event, fifty-nine were challenged. This tactic caused some difficulty in that potential jurors had to be brought from other courts in order to complete the panel.¹⁰² In his address to the jury on the fourth day of the trial, Evatt argued that the charge of 'common law riot' had never before been used in Australia and never for actions which had occurred on private property. After the prosecution summarised the evidence, the Judge instructed the jury that while the charges were based on very old legislation it was still sound. He told the jury that if they believed the allegations of brutality against the police it was their duty to acquit. However, the jury failed to agree and were locked up for the night. Next day the jury informed the Judge that there was no possibility of reaching agreement. The accused men were remanded for retrial. Bail was reduced from £80 to £25.¹⁰³ According to Christian's notes 'pressure was brought on the government' to drop the charges.¹⁰⁴ On 23 October 1931, the Attorney-General, Joe Lamaro, announced that there would be no further proceedings against those charged over the Newtown anti-eviction demonstration.¹⁰⁵ It seems reasonable to conclude that either Clive Evatt or Christian or both prevailed upon Joe Lamaro to drop the charges.

The trial of the men charged over the Bankstown anti-eviction demonstration commenced in Darlinghurst Court of Quarter Sessions on 9 November. The defence in this trial was also funded by the ICWPA and Christian briefed Clive Evatt on behalf of her clients. Empanelling the jury was again a lengthy process as the defence challenged seventy-four potential jurors. The Judge complained that the defence was 'bringing the whole system to the level of a farce.' Six more jurors were required so the Judge ordered the Sheriff to appoint 'six qualified bystanders'. The Sheriff appointed six jurors who had been summoned to an adjoining court to which Evatt objected on the ground that they were not 'bystanders' but he was over-ruled. This time the jury were able to agree and convicted all but one man. Appeals were lodged and the *Workers' Weekly* published an appeal for the necessary funds.¹⁰⁶

¹⁰² "Communists: Organised Demonstrations", *SMH*, 8 September 1931, p 10.

¹⁰³ "Eviction Riot: Nineteen Men Charged", *SMH*, 9 September 1931, p 12; "Newtown Riot Case: Brutality Alleged Against Police", *SMH*, 10 September 1931, p 4; "Nineteen Men Charged", *SMH*, 11 September 1931, p 5; "Jury Disagrees", *SMH*, 12 September 1931, p 6; "Jury Disagrees: Crown Fails to Convict", *Workers' Weekly*, 18 September 1931, pp1, 4.

¹⁰⁴ "Notes on cases for the ICWPA", *PT Thorne Papers*, NBAC, ANU, P15/8.

¹⁰⁵ "Newtown Riots: No Further Proceedings", *SMH*, 24 October 1931, p 13.

¹⁰⁶ "Eviction Riot: Seventeen Men Charged", *SMH*, 10 November 1931, p 6; 11 November 1931, p 8; 12 November p 6; 13 November p 6; 14 November p 10; "Lang Guards Victims: Trial of Anti-Evictionists",

The Bankstown appeals came before the Court of Criminal Appeal on 14 December. Christian and Clive Evatt were again retained by the ICWPA for the appellants. Evatt argued that the substantial ground for the appeal was the method of empanelling the jury and the second ground was that the warrant for the eviction did not conform to legal requirements. The Court granted a new trial on the ground that the jury was incorrectly empanelled but the judges criticised the defence's use of the challenge which they believed 'was done for the purpose of delaying or obstructing the administration of justice.' The second ground of appeal was dismissed by the Court. Bail of £20 was granted. The Crown and Christian's clients both appealed to the High Court against the Court's decision to grant a retrial.¹⁰⁷ The High Court heard the appeals against the granting of a new trial on 5 May 1932. Funding was again provided by the ICWPA. Clive Evatt, on behalf of the convicted men, argued that the Court of Criminal Appeal should have quashed the convictions on the grounds that the eviction order was defective and that the police acted prematurely. The Crown argued that the Court should not have ruled that the empanelment of the jury was defective and therefore a new trial should not have been granted. In its decision, handed down three months later, the High Court rejected both appeals which meant that the decision of the Court of Criminal Appeal ordering a new trial was sustained.¹⁰⁸ The retrial was scheduled for 19 September.¹⁰⁹

While Christian would seem to have been fully occupied in preparing for the defence of those charged in the anti-eviction cases, she also handled a number of uncontested divorce petitions¹¹⁰ and a successful claim for the suspension of alimony payments.¹¹¹

A quieter life...?

On 19 December 1931, a federal parliamentary election was held in which the short-lived Scullin Labor Government was defeated. Joseph Lyons became Prime Minister. Early in 1932, John Latham, the new Federal Attorney-General suggested to the Post-Master General that he should exercise his powers under the Crimes Act and the Post and Telegraph Act and

Workers' Weekly, 13 November 1931, pp1, 3; "ICWPA Appeals for Bankstown Victims", *Workers' Weekly*, 20 November 1931, p 3.

¹⁰⁷ "Bankstown Eviction Riot", *SMH*, 15 December 1931, p4; "Eviction Riot: New Trial Ordered", *SMH*, 19 December 1931, p 15; "Bankstown Trial; Crown Appeals", *Workers' Weekly*, 25 December 1931, p1.

¹⁰⁸ "Eviction cases", *SMH*, 6 May 1932, p 6 and 16 August 1932, p 4.

¹⁰⁹ "Bankstown eviction cases", *SMH*, 27 August 1932, p 10.

¹¹⁰ "Williams v Williams", *SMH*, 3 July 1931, P 6, "Keenan v Keenan", *SMH*, 6 August 1931, p 5; "Mason v Mason", *SMH*, 19 September 1931, "Brown v Brown", *SMH*, 30 October 1931, p 6;

¹¹¹ "Alimony Paid by Second Wife", *SMH*, 21 October 1931, p 8.

ban the transmission of communist publications through the post.¹¹² The publications banned by the Post-Master General included the *Workers' Weekly* and *The Soviets Today*. Predictably, the *Workers' Weekly* reacted with outrage over the banning of the paper and determined to fight the ban, organising mass protests and increasing the distribution of the *Workers' Weekly*.¹¹³ The Lyons Government also passed amendments to the Crimes Act in an attempt to ban 'subversive' organisations such as the CPA and the Friends of the Soviet Union. Christian would be involved in legal action challenging these actions.

In the early months of 1932, however, the foundation of Christian's legal practice continued to be uncontested cases in the Divorce Court.¹¹⁴ Such cases were interspersed with cases in various other courts. In a case before the Equity Court, her client was the defendant in a dispute over a lease contract.¹¹⁵ This was followed by a case in the Industrial Magistrates Court in which her client sued Labour Papers Ltd for payment of £107/18/9 in lieu of notice, overtime, proportion of annual leave and weekly days off. The Magistrate ruled in favour of Christian's client but awarded him £98/18/8.¹¹⁶

At the beginning of April, Christian received a visit from Nettie who was on her way to Queensland to spend the winter. Nettie told her mother that she had 'left the boat early and got to Christian's office too soon for her.'¹¹⁷ When Christian arrived they arranged to have lunch. That morning Christian appeared in court at Balmain where the 'blasted barristerlings let me down flat' and that 'you will understand why I had to keep my temper with the barrister who let me flop over the Balmain business when I tell you that it was Clive Evatt, Bert Evatt's young brother.' However, she conceded that 'I knew in the morning that I couldn't handle the case properly and if you hadn't been here it is possible that I might have gone out and made an ass of myself.'¹¹⁸ She attributed her state of mind to tiredness. At lunch Christian and Nettie had a 'long yarn about Asta'¹¹⁹, Theo, Teddy Brown, etc.' She

¹¹² Summary of events in relation to Thomas at Commonwealth of Australia re the banning of *Soviets Today*, NAA A467 SF 42/49.

¹¹³ "Lyons-Bruce Ban Working Class Literature", *Workers' Weekly*, 12 February 1932, p 1; "Revolutionary Workers will Not Surrender One Legal Position.", *Worker's Weekly*, 25 March 1932, p 1; "Hands off the Workers' Press", *Workers' Weekly*, 8 April 1932, p 1.

¹¹⁴ "Price v Price", *SMH*, 11 February 1932, p 6; "Nelson v Nelson", *SMH*, 16 February 1932, p 6; "Ingelby v Ingelby", *SMH*, 8 March 1932, p 6; "Martin v Martin", *SMH*, 7 April 1932, p 6.

¹¹⁵ "Lease of Residential", *SMH*, 10 March 1932, p 6 and 12 March 1932, p 10.

¹¹⁶ "Claim against 'The World'", *SMH*, 13 April 1932, p 8; and 15 April 1932, p 4.

¹¹⁷ Nettie Palmer to Mother", 7 April 1932, *Palmer Papers*, NLA MS 1174/1/3966.

¹¹⁸ CJS to Nettie Palmer, April 1934, *Palmer Papers*, NLA MS 1174/1/3956. I have not been able to ascertain the circumstances of the case.

¹¹⁹ There is not enough evidence to work out who Asta might have been.

noted that Christian was 'fairly well and very busy.'¹²⁰ It may have been this meeting that Christian had in mind in April 1934 when she wrote that 'I enjoyed like anything the time you spared me when you were on your way through.'¹²¹

Christian's unhappiness with Clive Evatt over the case at Balmain did not preclude further professional contact. On 18 April, Christian briefed Clive on behalf of Bruno Urbanski, a painter, who was charged in the Court of Petty Sessions with assault occasioning actual bodily harm. At a political meeting, alleged to have been held by Communists, Urbanski had thrown cayenne pepper into the eyes of three policemen who were part of a police cordon surrounding the crowd. When one of them had tried to prevent Urbanski from escaping he threw more pepper into the man's eyes causing damage that required almost three months off work. The jury were unable to agree on one charge but convicted him on the other. Urbanski was sentenced to two years imprisonment.¹²² She briefed Clive Evatt again in a case before the Workers' Compensation Commission in late April in which Christian's client sought a higher rate of compensation than that offered by the Transport Commission but the claim was dismissed.¹²³ Christian lodged an appeal against this decision which was heard in November when Christian briefed both Clive Evatt and Frank Dwyer to appear for her client but the appeal was also dismissed.¹²⁴

On 6 May, a day after the High Court hearing of the Bankstown appeals, Christian was involved in another case in the Court of Criminal Appeal. Christian's client, Frank Banks, had been convicted under the Printing Act at Paddington Police Court on 8 February for distributing a paper without the name and address of the printer. He was fined £20 or forty days imprisonment.¹²⁵ The paper had been printed using a Roneo machine. On 14 March, Banks sought leave to appeal against his conviction on the ground that the pamphlet was not 'printed' within the meaning of the Printing Act. The matter was referred to the Court of Criminal Appeal for a ruling on what constituted 'printing'. The Court decided that a paper produced by the Roneo process was not a paper within the meaning of the Printing Act as the

¹²⁰ Diary entry 5 April 1932, *Palmer Papers*, NLA MS 1174/16/15.

¹²¹ CJS to Nettie Palmer, April 1934, *Palmer Papers*, NLA MS 1174/1/3956. Nettie's diary does not suggest that she visited CJS again in Sydney before March 1935.

¹²² "Painter Charged", *SMH*, 19 April 1932, p 6; "Pole Convicted", *SMH*, 20 April 1932, p 6, "Two Years Imprisonment", *SMH*, 21 April 1932, p5.

¹²³ "Average Weekly Earnings", *SMH*, 28 April 1932, p 6 and 20 May 1932, p6.

¹²⁴ "Average Weekly Earnings", *SMH*, 4 November 1932, p 5 and 5 November, p 10.

¹²⁵ "Communist Fined", *SMH*, 9 February 1932, p 6.

words of the Act could not be extended to include office machines. As a result, the Judge in Quarter Sessions upheld Banks's appeal and quashed his conviction.¹²⁶

Meanwhile, on 13 May 1932, the Governor of New South Wales, Sir Philip Game, dismissed Jack Lang and his government. The leader of the conservative opposition, Bertram Stevens was installed as caretaker premier and elections were fixed for 11 June. The NSW Labor party was crushingly defeated in the elections. There were now conservative governments at State level in NSW and at federal level and both levels of government were determined to proscribe subversive, particularly Communist, activity.

The focus of anti-eviction activity moved to Newcastle when more than one hundred pickets attempted to prevent an eviction at Clara Street, Tighe's Hill, on 14 June. Twenty-two men were charged with riotous assembly on the day.¹²⁷ Bail was fixed at £80. Police searches resulted in further arrests.¹²⁸ When the case came before the Newcastle Police Court on 29 June, thirty men were charged with armed riot.¹²⁹ The hearing of the charges began on 11 July. Clive Evatt, instructed by Christian and funded by the ICWPA, was again in court for the defence. The thirty men charged were committed for trial in the Newcastle Court of Quarter Sessions in September. Bail was set at £40, reduced from the initial £80.¹³⁰ The *Workers' Weekly* condemned the charges and urged workers throughout Australia to campaign for their withdrawal and to raise funds for the defence of those charged.¹³¹

While these court proceedings were taking place, Christian continued to handle divorce cases. Most were uncontested.¹³² However, one case which was heard in July was to have longer-term consequences for Christian. Ernest Lamb sought a divorce from his wife, Eileen Lamb, on the grounds of her failure to comply with a decree of restitution of conjugal rights. Christian acted on behalf of his wife. Lamb initially succeeded in achieving a decree nisi but the Crown Solicitor sought to intervene and to cross-examine Lamb and his witnesses. As a result, the Judge in Divorce ruled that Lamb was not sincere in his application for restitution

¹²⁶ "Printing Act", *SMH*, 7 May 1932, p 10 and 25 June 1932, p 10; "Distribution of a Circular", *SMH*, 8 July 1932, p 7.

¹²⁷ "Rioters Attack Police", *SMH*, 15 June 1932, p 11; "Desperate Clash", *NMH*, 15 June 1932, p 5

¹²⁸ "Police Search", *NMH*, 16 June 1932, p 7.

¹²⁹ "Further Remand: Tighe's Hill Cases", *NMH*, 30 June 1932, p 8.

¹³⁰ "Eviction Riot: Thirty Men in Court", *SMH*, 12 July 1932, p 10; "Thirty Charged; Tighe's Hill Eviction Cases", *NMH*, 12 July 1932, p 5; "Eviction cases: Men Sent for Trial", *NMH*, 13 July 1932, p 3; "Eviction Riot: 30 men committed for trial", *SMH*, 13 July 1932, p 12.

¹³¹ "Tighe's Hill Eviction", *Workers' Weekly*, 19 August 1932, p 4.

¹³² "Clare v Clare", *SMH*, 24 June 1932, p 6; "Peniston v Peniston", *SMH*, 29 June 1932, p 8; *Chesham v Chesham*", *SMH*, 30 August 1932, p 6.

and that there had been collusion between the parties to bring about a divorce. The decree nisi was therefore set aside.¹³³ As well as the divorce cases, Christian also handled a successful workers' compensation case.¹³⁴

Towards the end of August, the Commonwealth Government took action under the amended Crimes Act to have the Communist Party ejected from the premises which they rented for their headquarters by threatening the owner of the property with prosecution. The property owner then issued a formal notice to the Communist Party to quit the premises.¹³⁵ The Communist Party ignored the notice and on 15 September the property owner took action in Sydney Central Summons Court to have the Party ejected from the premises. Christian, acting on behalf of the Communist Party, challenged the application for ejection on the grounds of lack of evidence and asked for the application to be dismissed. The Magistrate agreed and dismissed the application.¹³⁶

New trials and retrials

Meanwhile, the trial of the men charged in relation to the Tighe's Hill eviction began in Newcastle Court of Quarter Sessions on 5 September. Clive Evatt, instructed by Christian, appeared for the accused men. After the successful appeal in the Bankstown case over the process of empanelling the jury, the prosecution prepared for similar tactics by the defence team by summoning nearly three hundred potential jurymen. Evidence for the prosecution took up almost two days of the hearing while the case for the defence took about a day. Evatt addressed the jury for four hours. After a retirement of seven and a half hours, the jury returned a verdict of not guilty with respect to eighteen of the accused. The jury was then locked up to consider their verdict in the remaining cases. Two further men were acquitted but the jury failed to agree about the remaining ten men. These men were committed for retrial.¹³⁷ Christian must have been pleased with the outcome even though not all of her clients had been cleared.

¹³³ "Lamb v Lamb", *SMH*, 1 July 1932, p 6.

¹³⁴ "Claim by doughmaker", *SMH*, 15 July 1932, p 7.

¹³⁵ "Lyons' Move against CP and LAI", *Workers' Weekly*, 2 September 1932, p 1.

¹³⁶ "Communist Party: order for Ejection", *SMH*, 16 September 1932, p 10.

¹³⁷ "Tighe's Hill Eviction", *Workers' Weekly*, 19 August 1932, p 4; "Eviction melee charges", *NMH*, 6 September 1932, p5; "Eviction cases", *NMH*, 7 September 1932, p 4, 8 September 1932, p 4, 9 September 1932, p 6, 10 September 1932, p 4; "Sixth Day: Tighe's Hill Eviction case", *NMH*, 13 September 1932, p 8; "18 Acquitted", *NMH*, 14 September 1932, p8; "Not Guilty: 18 men acquitted", *SMH*, 14 September 1932, p 12; "Failed to Agree", *NMH*, 15 September 1932, p6; "Eviction riot: Jury Dismissed", *SMH*, 15 September 1932, p 14.

After the completion of the Tighe's Hill case, Christian continued to be very busy. The next case was the retrial of fourteen men charged over the Bankstown anti-eviction demonstration which began in Sydney Court of Quarter Sessions on 19 September. Once again Christian briefed Clive Evatt for the defence. The re-hearing of evidence took two days. The jury was unable to reach an agreement and was locked up overnight on 21 October. Next day the jury informed the magistrate that they could not reach agreement. The accused were remanded for another re-trial on bail of £20. As a consequence of the constant appeals for money to defend the workers, the International Labour Defence (formerly the ICWPA) had difficulty in raising sufficient funds to secure their release as well as paying the barrister.¹³⁸

On 23 September, Christian was again in the Court of Quarter Sessions to ask that the trial of Alexander Eatock, one of the Bankstown fourteen who had also been charged with inflicting grievous bodily harm on an inspector of police, be deferred until after the retrial of the Bankstown men. The magistrate indicated that that it was a matter for the Attorney-General and gave Christian time to make representations.¹³⁹ However, Christian was only successful in having Eatock's trial deferred until 10 October.¹⁴⁰ Christian briefed William Sheahan on behalf of Eatock. Police evidence was that Eatock had thrown a stone at the inspector which had rendered him semi-conscious. Another police officer had then shot Eatock in the leg in self-defence. Eatock denied throwing the stone and claimed that the police had shot him in the leg when he was trying to get out of the way. The jury returned a verdict of guilty with a recommendation for mercy. Eatock was sentenced to twelve months imprisonment.¹⁴¹

The third Bankstown trial began in the week after the conclusion of the Eatock trial. On this occasion, Christian briefed Mr Jack Richards to appear for the accused. Only one day was taken up in the re-hearing of evidence. Initially the jury failed to agree on a verdict and were locked up for the night. After further deliberation the accused were found guilty with a strong recommendation for mercy. The Judge was not impressed and determined to impose a deterrent punishment. The men were each sentenced to twelve months imprisonment.¹⁴² The prosecution must have breathed a sigh of relief at obtaining convictions after such a long time but this was not to be the end of the saga. The accused men again appealed against their

¹³⁸ "Bankstown Eviction case", *Workers' Weekly*, 30 September 1932, p 4.

¹³⁹ "Bankstown cases", *SMH*, 24 September 1932, p 10.

¹⁴⁰ "Trials Postponed", *SMH*, 28 September, 1932, p 7.

¹⁴¹ "Police Inspector Injured", *SMH*, 11 October, 1932, p 6; "Alleged Actual Bodily Harm", *SMH*, 12 October 1932, p 7; "Police Inspector Injured", *SMH*, 13 October 1932, p 6, 14 October 1932, p 5.

¹⁴² "Fourteen men Charged" *SMH*, 18 October 1932, p 5 and 20 October 1932, p 7; "Jury Locked Up", *SMH*, 21 October 1932, p 6; "Fourteen men convicted", *SMH*, 22 October 1932, p 10; "Fourteen men sentenced", *SMH*, 25 October 1932, p 5 and "Judge's Strictures", *SMH*, 25 October 1932, p 9.

convictions. The appeals were heard by the Court of Criminal Appeal in December while the trial of those accused over the Tighe's Hill anti-eviction demonstration was proceeding at Singleton. The grounds for the their appeals were that the jury was not properly summoned and empanelled according to the provisions of the Jury Act, that evidence was wrongly admitted and that the trial judge misdirected the jury. The Court dismissed the appeals, arguing 'that the accused had not been prejudiced in any way' and that the sentences were not excessive.¹⁴³

While the Bankstown retrial and appeals proceeded, new uncontested divorce cases also claimed Christian's attention. In three cases she appeared in person for her client, in another she briefed Sibyl Morrison.¹⁴⁴ At the same time she was preparing for the defence of Hal Devanny, husband of the writer Jean Devanny, an active member of the Communist Party and editor of the *Workers' Weekly*. Devanny was charged with having solicited contributions for the Communist Party, an 'unlawful association' within the meaning of the *Crimes Act 1914-1932*. The International Labour Defence again appealed for funds to finance Devanny's defence. Devanny was scheduled to appear in the Sydney Central Summons Court in 4 October but Christian sought an adjournment on the grounds that the Commonwealth had issued fresh summonses 'covering 69 pages of typewritten matter...and it had been impossible to examine them thoroughly.'¹⁴⁵ The Government had been forced to reissue the summons because 'the CPA's lawyers...found it fraught with legal blunders.'¹⁴⁶ Christian was not just attempting to delay the hearing. Geoffrey Sawyer described the Commonwealth's deposition as 'a gross abuse of the averments provision of the [Crimes] Act.'¹⁴⁷ Citing Russian archival sources, David McKnight described the behind-the-scenes battle between the CPA leadership and Devanny's legal team, that is Christian Jollie Smith and Clive Evatt, over the tactics to be employed in conducting the case. The lawyers argued that the case could be won on legal grounds alone but the Political Bureau of the CPA insisted that Lance Sharkey, a member of the CPA Central Executive, should take the stand and put the party's position, justifying its actions as the workers' champion. Perhaps fortunately, the lawyers' view prevailed.¹⁴⁸

¹⁴³ "Jury Act: Need for Amendment", *SMH*, 22 December 1932, pp 6 and 9; "Appeals Fail", *NMH*, 22 December 1932, p 8.

¹⁴⁴ "Buttel v Buttel", *SMH*, 21 October 1932, p 6; "Reed v Reed", *SMH*, 24 October 1932, p 6; "Ritchie v Ritchie", *SMH*, 6 December 1932, p 8; "Clarke v Clarke", *SMH*, 17 December 1932, p 10.

¹⁴⁵ "Workers' Weekly: Charges against Printer and Publisher", *SMH*, 5 October 1932, p 8.

¹⁴⁶ David McKnight, *Espionage and the Roots of the Cold War*, Frank Cass, London, 2002, p 143.

¹⁴⁷ Geoffrey Sawyer, *Australian Federal Politics and Law 1929-1949*, MUP, 1963, p 70.

¹⁴⁸ McKnight, *op cit.*, pp 143-144.

The trial of Hal Devanny eventually commenced on 24 October 1932 in Sydney Central Summons Court. The Commonwealth submitted its seventy page deposition outlining the charge. The *Sydney Morning Herald* described it as ‘a remarkable document, which purported to disclose the widespread ramifications of the Communist Party in Australia.’¹⁴⁹ Clive Evatt, counsel for Devanny, argued that the section of the Crimes Act under which the charge was brought was beyond the power of the Commonwealth (*ultra vires*). The magistrate did not accept the defence’s argument and convicted Devanny to six months imprisonment. The Commonwealth sought payment of costs and the magistrate ordered Devanny to pay £36/15/- in default an extra 74 days hard labour. Christian indicated that the validity of the Crimes Act amendments would be tested in the High Court.¹⁵⁰

On the same day that Devanny was sentenced, Christian and Clive Evatt were involved in another case in the Court of Quarter Sessions. Christian’s client, Ronald Gorman who was alleged to be a well-known Communist, was charged with attempting to seduce two members of the Commonwealth Military Forces from their duty and allegiance. The charge related to an incident which had occurred in the previous May when Gorman had stepped out of a dole queue and handed the soldiers an anti-war pamphlet which was specifically addressed to ‘fellow workers in the militia’. The defence argued that accused was merely handing out leaflets as a protest against war. Once again the jury failed to agree and were locked up for the night. The next day they told the magistrate that there was no possibility of agreement and were discharged. Gorman was remanded for retrial.¹⁵¹ When the matter came before the court again in December the jury, after only a brief adjournment, returned a verdict of guilty and Gorman was given a good behaviour bond.¹⁵²

Next Christian briefed Clive Evatt to seek a change of venue for the retrial of the men charged over the Tighe’s Hill anti-eviction demonstration. The Attorney-General had ordered that the trial take place at Singleton but Christian wanted the trial moved to Newcastle on the grounds that a fair and unprejudiced trial could not be achieved at Singleton. The matter was heard in Sydney on 10 and 15 November. Evatt argued that costs of travel to Singleton for Newcastle witnesses would be burdensome and that the trial venue had been set in order to obtain a conviction. The Solicitor-General argued that the venue was chosen in the public interest,

¹⁴⁹ “Communist Methods”, *SMH*, 25 October 1932, p 9.

¹⁵⁰ “Communist Party: Unlawful Body”, *SMH*, 26 October 1932, p 12; “Crimes Act: Devanny Convicted”, *NMH*, 26 October 1932, p 8; “Devanny Convicted; Mass Protests Necessary”, *Workers’ Weekly*, 28 October 1932, p 1; “Communist Party: Publisher Sentenced”, *SMH*, 1 November 1932, p 9.

¹⁵¹ “Jury Locked Up”, *SMH*, 1 November 1932, p 6; “Failed to Agree”, *SMH*, 2 November 1932, p 10.

¹⁵² “Communist Guilty”, *SMH*, 9 December 1932, p 12.

that the costs of witnesses with material evidence would be met by the Crown, and that the defence had not demonstrated in what way the venue would result in an unfair trial. The Judge agreed with the Solicitor-General and refused to order a change of venue.¹⁵³ The decision not to change the venue was appealed to the Full Bench of the Supreme Court but the appeal was dismissed.¹⁵⁴ The trial was set down for 22 November. A further dispute arose over the payment of expenses to witnesses. The Crown insisted that expenses would only be paid after the event. Christian approached the Clerk of the Peace to negotiate prepayment of expenses on the grounds that the witnesses could not afford to attend without money in advance but this request was refused. The matter was then taken up before a Judge in Chambers. Judge agreed that advance payment for the rail fare was reasonable and ruled accordingly.¹⁵⁵

While the legal manoeuvres over the trial of the Tighe's Hill anti-eviction cases were going on, the Chief Justice of the High Court announced that Hal Devanny's appeal would begin on 21 November.¹⁵⁶ Christian, faced with managing the defence for two significant cases in different places, briefed Jack Richards to apply for a week's adjournment of Devanny's appeal hearing on the ground that he wanted to brief a particular barrister. However, the Chief Justice of the High Court refused to grant an adjournment.¹⁵⁷ The hearing began as scheduled on 21 November. Given that Christian had already briefed Clive Evatt who was committed to the Tighe's Hill trial at Singleton on 22 November, she also briefed Mr Mack KC and Jack Richards on behalf of Devanny. The grounds of appeal included that there was no evidence that Devanny was soliciting contributions on behalf of the Communist Party, no evidence that the Communist Party was an unlawful association within the meaning of the Crimes Act and that nothing in the Commonwealth's deposition was sufficient to support the charges. On 8 December, by a majority of five to one, the High Court upheld Devanny's appeal. Costs were awarded against the Commonwealth.¹⁵⁸

¹⁵³ "Eviction Riot: Venue of Second Trial", *SMH*, 11 November 1932, p 6; "Venue of Trial", *SMH*, 15 November 1932, p 6; "Retrial Venue", *NMH*, 15 November 1932, p 4; "Change of Venue", *SMH*, 17 November 1932, p 8; "Change Refused", *NMH*, 17 November 1932, p 8.

¹⁵⁴ "Change of Venue", *SMH*, 19 November 1932, p 10.

¹⁵⁵ "Witnesses Costs", *NMH*, 18 November 1932, p 10.

¹⁵⁶ "Devanny case", *SMH*, 17 November 1932, p 8.

¹⁵⁷ "Devanny Appeal", *SMH*, 18 November 1932, p .

¹⁵⁸ "Devanny Appeal"; *SMH*, 22 November 1932, p 6; 23 November, p 10; 24 November p 6; "Devanny Appeal Allowed" *SMH*, 9 December 1932, pp 6 and p 7.

A marathon trial

Throughout the Tighe's Hill trial which began on 22 November at Singleton, Christian's legal clerk, Harry Thorne, was in the courtroom instructing Evatt while she handled the Devanny and Bankstown cases in Sydney. At the opening of the Tighe's Hill trial Clive Evatt raised several objections. Firstly, he submitted that the appointed Judge disqualify himself because he had presided at the first trial. The Judge agreed that this would have been preferable but that there was no other Judge available to take the case. Then Evatt told the Court that he had come to Singleton at the expense of his instructing solicitor (Christian) because the men had not been able to raise the funds to pay for their legal representation. He asked that the hearing be adjourned to allow further fundraising. The Judge advised that there was provision for those unable to pay for representation and asked whether such an application had been made. Evatt replied that 'Miss Smith has been most diligent on behalf of these men.' The Judge offered to adjourn the hearing until the next day while application was made to the Crown for financial assistance but the Crown Prosecutor forestalled an adjournment by agreeing that financial assistance could be approved by 2 pm. Evatt was assigned to appear on behalf the defence which meant that the NSW Government would be paying Evatt's expenses.

After the indictments were read, the first defendant pleaded *autrefois acquit* (that is, previously acquitted). The judge sought an explanation and then ordered that the plea be put in writing. When this was done he ruled that it did not conform to requirements and refused to accept it. Evatt riposted that the names, addresses and occupations of the jurors were not on the cards and that the Jury Act had therefore not been complied with. The Judge upheld Evatt's challenge and the hearing was adjourned until 12 December. The Judge added that he would arrange for another Judge to hear the matter but refused Evatt's application to move the trial to Newcastle.¹⁵⁹ When the hearing reopened on 12 December, before a different Judge, Evatt objected to his presence on the ground that he was a Judge of a metropolitan District Court and therefore had no jurisdiction in another area but his objection was promptly dismissed. Evatt made further objections which took up the whole morning. It is tempting to conclude that, since Evatt's expenses and the expenses of the defence witnesses were being met by the Government, the defence was determined to string the trial out as long as possible to maximise the cost to the Government of bringing the action. In the afternoon a jury was

¹⁵⁹ "Tighe's Hill case", *SMH*, 23 November 1932, p4; "Many Objections", *NMH*, 23 November 1932, p 7; Eviction Case; Jury Wrongly Arrayed", *SMH*, 24 November 1932, p 7; "Trial Adjourned", *NMH*, 24 November 1932, p 7.

empanelled to consider the pleas of *autrefois acquit*. Evatt called Harry Thorne, Christian's legal clerk, into the witness box in support of his argument that the men had been acquitted of the same charge in Newcastle. Following extensive legal argument the Judge directed the jury to find that the pleas were not sustained. Empanelment of a jury to consider the main charges took up most of the second day.¹⁶⁰

The trial was to become one of the longest on record in NSW. The hearing of evidence for the prosecution took fourteen days, mainly because of Evatt's detailed cross-examination, spread over several weeks and was not concluded until 16 January 1933.¹⁶¹ The case for the defence took up twelve days. Evatt then addressed the jury for 119 hours.¹⁶² After about eighty hours, the Government decided that it would not continue to provide financial assistance.¹⁶³ On 18 May, when the jury finally were able to deliberate, two of the men were acquitted but the jury was unable to agree on the remaining eight.¹⁶⁴ The remaining accused men were remanded for retrial at the next Quarter Sessions at Singleton or any other Court selected by the Attorney-General. In the event, the Attorney-General decided not to proceed with a further trial. In coming to this decision, he may have been influenced by the cost of another retrial. The second retrial of the Tighe's Hill accused was estimated to have cost about £7,500 which was largely due to the Attorney-General's undertaking to underwrite the costs of the defence counsel, Clive Evatt.¹⁶⁵

Other cases

While 1933 began with the long-running Tighe's Hill retrial, other cases were also competing for Christian's attention. There were two uncontested divorce cases - one in February and the other in May.¹⁶⁶ In February 1933, while the Tighe's Hill trial was adjourned she was retained by Ann Lennon who was appealing against a conviction for using unseemly

¹⁶⁰ "Tighe's Hill Trial", *NMH*, 13 December 1932, p 6; "Jury Empanelled", *NMH*, 14 December 1932, p 8;

¹⁶¹ "Eviction Trial", *NMH*, 15 December 1932, p 8 and 20 December p8; "Eviction Retrial Adjourned to January 9", *NMH*, 23 December 1932, p 7; "Ninth Day", 10 January 1933, p 7; "Counsel Protests", *NMH*, 12 January 1933, p 6; "Bed In Court: Illness of Clarke", *NMH*, 13 January 1933, p 10; Tighe's Hill Case: End of Police Evidence", *NMH*, 17 January 1932, p 6.

¹⁶² "Defence Begun", *NMH*, 18 January 1933, p 6. The progress of the defence case can be followed in the *Newcastle Morning Herald* from 18 January to 18 May, "Singleton Trial May Conclude Today", *NMH*, 18 May 1933, p 9.

¹⁶³ "Long Addresses: No more State Pay for Counsel" *SMH*, 11 April 1933.

¹⁶⁴ "Tighe's Hill Case: Two Men Found Not Guilty", *SMH*, 19 May 1933, p 12; Tighe's Hill case: Jury Fails to Agree", *SMH*, 20 May 1933, p 14.

¹⁶⁵ "Unique Trial", *NMH*, 19 May 1933, p 8; "Alleged Eviction Riot", *SMH*, 18 July 1933, p 6.

¹⁶⁶ "Clare v Clare", *SMH*, 21 February 1933, p 6 and "Macdougall v Macdougall" *SMH*, 3 May 1933, p 9.

language.¹⁶⁷ Ann Lennon was the Secretary of the Rationalist Association. She gave a speech in the Domain on 23 October in which she was alleged to have made atheistic remarks. Lennon defended herself when she appeared in the Central Summons Court on 20 December. The Magistrate who convicted her remarked that ‘it was high time action was taken to stop the use of unseemly and offensive words in public places.... The words [used], sworn by the police officers, were offensive to people in a Christian country.’ Lennon was fined £10 in default twenty-one days gaol.¹⁶⁸

Lennon’s appeal was heard in the Court of Quarter Sessions in early February 1933. Christian briefed Albert Piddington, KC¹⁶⁹, and Clive Evatt to appear on behalf of Lennon. Piddington argued that the statements attributed to Ann Lennon were ‘merely controversial allegations with regard to disputed matters of belief.’ After hearing evidence for three days, the Judge dismissed the appeal and refused to reduce the fine. On 17 March, Lennon sought an order for a stay of proceedings in the Supreme Court but her application was dismissed. Lennon then applied to the High Court for special leave to appeal against the latter decision but the High Court refused to grant leave on the ground that Lennon ‘had other means of obtaining an order from the Supreme Court.’¹⁷⁰

After handling Anne Lennon’s appeals, Christian was also retained for the defence in a sensational murder trial. Eric Craig was charged with the murder of sixteen-year-old Bessie O’Connor on 14 December. He had previously been charged with the murder of another young woman, May Miller,¹⁷¹ but on 16 March he was convicted of manslaughter and sentenced to 20 years hard labour.¹⁷² In Craig’s first trial on the charge of murdering Bessie O’Connor, in which Christian was not involved, the jury were unable to reach an agreement.¹⁷³ Christian was then retained to handle Craig’s retrial. Craig’s second trial commenced in the Central Criminal Court on 26 April. After the completion of evidence the

¹⁶⁷ “Fine for Unseemly Language”, *SMH*, 7 February 1933, p 5 and 9 February 1933, p 6.

¹⁶⁸ “Domain Speaker: Fined for Unseemly Language”, *SMH*, 21 December 1932, p 8.

¹⁶⁹ Albert Bathurst Piddington was admitted to the bar in 1890 and was appointed King’s Counsel in 1913. He was appointed to the NSW Industrial Commission in 1926 and resigned in 1932 after the dismissal of Lang. After his resignation he continued to work as a barrister. Michael Roe “Albert Bathurst Piddington”, *ADB*, Vol 11, pp 224-226.

¹⁷⁰ “Rationalist Speaker: Appeal Against Conviction”, *SMH*, 2 February 1933, p 4; “Fine for Unseemly Language”, *SMH*, 7 February 1933, p 5 and 9 February, 1933, p 6; “Alleged Unseemly Language”, *SMH*, 25 April 1933, p 6.

¹⁷¹ “Park Murder”, *SMH*, 10 January 1933, p 11; “Craig Charged”, *SMH*, 23 January 1933, p 9.

¹⁷² “Eric Craig: Manslaughter Verdict”, *SMH*, 17 March 1933, p 10.

¹⁷³ “Eric Craig: Second Trial mentioned”, *SMH*, 21 March 1933, p 10; “Eric Craig: Charge of Murder”, *SMH*, 30 March 1933, p 10; “Eric Craig Declares Innocence”, *SMH*, 31 March 1933, p 11; “Eric Craig: Jury Disagrees”, *SMH*, 1 April 1933, p 14.

jury was locked up overnight but were unable to reach agreement on a verdict. Craig was again remanded for retrial.¹⁷⁴ The third trial commenced in the Central Criminal Court on 6 June. After hearing evidence for two days, the jury handed down a guilty verdict after deliberating for five and a half hours. Craig was sentenced to death.¹⁷⁵

In June, Craig appealed against his conviction on the ground that fresh evidence had been obtained but the appeal hearing was stood over until the next law term.¹⁷⁶ When the hearing commenced on 26 July, a new witness provided a new suspect for the murder. Christian's legal clerk, Harry Thorne, had been actively involved in recovering the material evidence which pointed to this man. The Prosecution argued that the new witness was a known perjurer who could not possibly be believed. The Court dismissed Craig's appeal on the ground that the fresh evidence could not be reasonably believed by a jury.¹⁷⁷ Christian appeared in the High Court in 16 August to seek leave to appeal against this decision.¹⁷⁸ The High Court hearing of the request for special leave to appeal commenced on 17 August. After hearing argument on the credibility of the new evidence the High Court reserved its decision which was handed down on 29 August. In a three-two split, Craig's request for special leave to appeal was refused.¹⁷⁹ Christian must have been disappointed by the close decision but she would probably have been relieved when State Cabinet decided to commute Craig's death sentence to one of penal servitude for the term of his natural life.¹⁸⁰

In September 1933, Christian briefed Clive Evatt and Frank Dwyer in a libel action against John Fairfax and Sons, the owner of the *Sydney Morning Herald*. Christian's client, Francis Quinn, sought damages of £5,000. He claimed that a photograph of himself in juxtaposition with a description of an anti-war demonstration and raid on the Japanese Consulate in Sydney implied that he was a Communist and that, with other Communists, he took part in an unlawful demonstration and raid and had been guilty of riotous and disorderly behaviour. Quinn denied being a member of the Communist Party but evidence from members of the

¹⁷⁴ "Eric Craig: Second Trial on Murder Charge", *SMH*, 27 April 1933, pp 5 and 7; "Eric Craig: Trial on Charge of Murder", *SMH*, 28 April 1933, pp 8 and 12; "Craig Trial: Jury Locked up", *SMH*, 29 April 1933, pp 10 and 13; "Jury Disagrees", *SMH*, 1 May 1933, p 10.

¹⁷⁵ "Eric Craig: Third Trial on Murder Charge", *SMH*, 7 June 1933, pp 7 & 12; "Murder Charge: Trial of Eric Craig" *SMH*, 8 June 1933, pp 6 & 10; "Craig Guilty", *SMH*, 9 June 1933, pp 7 & 11.

¹⁷⁶ "Rex v Craig", *SMH*, 27 June 1933, p 6.

¹⁷⁷ "Bessie O'Connor Murder: Remarkable Evidence in Support of Craig's Appeal", *SMH*, 29 July 1933, p 14; "Craig's Appeal: Evidence by Murdered Girl's Mother", *SMH*, 1 August 1933, p 10.

¹⁷⁸ "Eric Craig: Case to be Mentioned in High Court", *SMH*, 17 August 1933, p 6.

¹⁷⁹ "Eric Craig: Asks for Special leave to Appeal", *SMH*, 19 August 1933, pp 10 and 14; 22 August 1933, p 10; "Eric Craig: Leave to Appeal Refused" *SMH*, 30 August 1933, pp 8 and 12.

¹⁸⁰ "Eric Craig: Death Sentence Commuted", *SMH*, 19 September 1933, p 11.

police force who had been under cover members of the Communist Party alleged he had been present at meetings of Communist organisations such as the Unemployed Workers Union and been seen in the company of known Communists. The verdict of the jury was in Quinn's favour but he was awarded only a farthing in damages. However, the Judge did award costs to Quinn which must have been a relief for Christian and her barristers.¹⁸¹

After the libel case ended business was relatively quiet with several uncontested divorce cases.¹⁸² Christian must have breathed a sigh of relief as the end of the 1933 legal year approached. After four years of challenging work, and with the support of International Class War Prisoners Aid/International Labor Defence, she had successfully established a reputation for defending the unemployed and those dispossessed of their homes – people who would not otherwise have been able to afford representation before the courts. Her confidence must have been bolstered by her close association with several eminent NSW Labor lawyers including Clive Evatt. Her professional partnership with Evatt would continue to be a feature of her practice over the next six years.

¹⁸¹ "Alleged Libel", *SMH*, 13 September 1933, p 8 and 14 September, p 6.

¹⁸² "Ashton v Ashton", *SMH*, 22 September 1933, p 7; "Webbe v Webbe", *SMH*, 30 September 1933, p 10; "Hannan v Hannan", *SMH*, 29 November 1933, p 9.

Chapter 6: The Well- Known Lady Solicitor – 1934-1939

Her practice is an astonishing success

In April 1934, Christian described the success of her practice as ‘astonishing and no-one is more astonished than I am.’¹ Indeed, she became so renowned as a defence lawyer that by the end of 1934, when an attempt was made on her life, the *Sydney Morning Herald* could refer to her as ‘the well-known lady solicitor’.²

From 1934 onwards economic conditions in New South Wales began improving and unemployment fell steadily although it was still higher than for the country as a whole.³ One of the consequences of the depression had been increased membership of the Communist Party of Australia - from a rump of about 300 members in late 1927 to nearly 2000 (mostly among the unemployed) in 1932 and to almost 3000 by the end of 1935.⁴ In the late 1930s Communists were elected to leadership positions in a number of key unions, notably the Miners’ Federation, the Australian Railways Union, the Waterside Workers’ Federation, the Federated Ironworkers Association and the Sheet Metal Workers Union,⁵ a trend of significance for Christian’s practice. Over the six years from 1934, the focus of her practice changed to become more industrially based while at the same time taking on cases challenging the Commonwealth Government’s attempts to curtail the activities of the Communist Party and attempts to restrict freedom of speech.

The legal year 1934 began routinely, however, with Christian’s first case involving a dispute over a share of a lottery prize. The matter was resolved when Christian negotiated a settlement. Her next case was on behalf of a client threatened with eviction by the Rural Bank of New South Wales for failing to make loan repayments. Clive Evatt was briefed to appear but the case was lost.⁶ The next case involved a claim of false imprisonment in which Christian’s client

¹ CJS to Nettie Palmer, April 1934, *Palmer Papers*, NLA MS 1174/1/3956.

² “Alleged Assault on Woman Solicitor” *SMH*, 17 November 1934, p 17.

³ Wray Vamplew (ed), *Australians: Historical Statistics*, Fairfax, Syme and Weldon Associates, 1987, Sydney, p 152.

⁴ Macintyre, op cit., pp 117, 180, 280. However, membership numbers are unreliable as they were generally exaggerated to create a good impression in Moscow.

⁵ *Ibid.*, p 329.

⁶ “Action of Ejectment”, *SMH*, 14 April 1934, p 12.

unsuccessfully sued her cousin, who was the informant, for damages.⁷ Christian's client then successfully brought an action against the police and was awarded £400 in damages.⁸

In early May, Christian appeared in the Bankruptcy Court on behalf of her client Eileen Lamb whom she had previously represented in divorce proceedings. Following the failure of her husband's application for a divorce in 1932, Mrs Lamb had subsequently made a successful application for a divorce but she was required to make a substantial payment to her former husband, Ernest, which she was unable to meet. During the bankruptcy proceedings, her ex-husband was allowed to cross-examine Mrs Lamb but Lamb put questions about the divorce proceedings and was reprimanded by the Registrar who pointed out that 'this was an examination in bankruptcy. The question of divorce has been settled.'⁹ Unhappy about his treatment, Ernest Lamb, would later vent his frustration on Christian.

A successful contested divorce case was followed by several damages cases in which Clive Evatt and Frank Dwyer were briefed. In the first damages case, Christian's client brought a libel action and a claim for £5,000 damages, against *The World* newspaper. The claim succeeded but Christian's client was awarded only £75 damages.¹⁰ The next damages case was lost¹¹ and an appeal against this verdict was heard in November but was dismissed.¹² In the third case, Christian's client's claim for damages for injuries to himself and his motorcycle incurred in a collision with a truck was settled out of court.¹³ Over the next four months, Christian was mainly occupied with appearing for her clients in uncontested divorce applications or applications for restitution of conjugal rights.¹⁴ However, one divorce case was held over because of uncertainty over the applicant's domicile. Under the divorce law as it then stood an applicant for divorce had to bring an action in the State within which the applicant was domiciled. This was relatively easy for male applicants because they were assumed to be domiciled in the State in which they lived. However, a married woman was assumed to have the same domicile as her husband. In applications for divorce on the grounds of desertion, a married woman who may have had no idea as to the whereabouts of her husband was hampered

⁷ "False imprisonment alleged", *SMH*, 17 April 1934, p 6 and 18 April 1934, p 8.

⁸ "Action Against Constables", *SMH*, 12 September 1934, p 10, 13 September 1934, p 5 and 14 September, 1934, p 6; "£400 Damages Awarded Woman Against Police", *SMH*, 14 September 1934, p 11.

⁹ "Divorced Man and Wife in Bankruptcy Court", *SMH*, 8 May 1934, p 6.

¹⁰ "Libel Alleged", *SMH*, 9 June 1934, p 12.

¹¹ "A Railway Fatality", *SMH*, 12 June 1934, p 6 and 14 June 1934, p 5.

¹² "Compensation Claim", *SMH*, 9 November 1934, p 6 and 10 November 1934, p 12.

¹³ "Cycle and Lorry Collide", *SMH*, 29 June 1934, p5.

¹⁴ "Lang v Lang", *SMH*, 21 June 1934, p 4; "Ducker v Ducker" and "Shell v Shell", *SMH*, 31 July 1934, p 6; "Worswick v Worswick", *SMH*, 14 August 1934, p 8; "McDonald v McDonald", *SMH*, 24 August 1934, p 8; "Edwards v Edwards *SMH*, 29 September, 1934, p 12; "Burgess v Burgess", *SMH*, 9 October 1934, p 8.

by this assumption. Hence the adjournment of this case until the question of domicile was determined.¹⁵

In August, Christian briefed Jock McClemons on behalf of her client, the Australasian Coal and Shale Employees' Federation, in a case before Mr Justice Beeby of the Commonwealth Conciliation and Arbitration Court brought by Bulli Colliery and Coke Works Ltd. This case reflected the change in Christian's practice as it was the first case that she had handled before the Commonwealth Conciliation and Arbitration Court involving the interpretation of an award. Beeby adjourned the hearing in order that notice of the application could be served on the other parties to the award.¹⁶ When the case returned to the Arbitration Court in November, Beeby ruled that when the award was made he had prescribed a reduction in daily award rates.¹⁷

'No obligation to admit persons of this type'

In October European author and journalist, Egon Kisch, was on his way to Australia to attend the Second All-Australian Anti-War congress in Melbourne.¹⁸ Kisch had been invited by the Melbourne branch of the Movement Against War and Fascism (MAWF). Established in 1933 as the local branch of the Movement Against War, founded in Amsterdam in 1932, it added 'and fascism' to its name after the Soviet Union joined the League of Nations in 1934.¹⁹ The saga of Kisch's visit to Australia has been told in several articles and books²⁰ but, since Christian is almost invisible in these publications, it is necessary to provide an outline of events in order to ensure that Christian's role in the legal battle is recognised.

¹⁵ "Webb v Webb", *SMH*, 20 July 1934, p 8.

¹⁶ "Coal and Shale Award", *SMH*, 1 September 1934, p 12.

¹⁷ "The Bellambi Coal Co Ltd and Others v The Australasian Coal and Shale Employees Federation, *ex parte* Bulli Colliery and Coke Works Ltd" 33 *Commonwealth Arbitration Reports*, p1010.

¹⁸ "Egon Kisch and Mrs Moroney on Boat", *Workers' Weekly*, 19 October 1934, p 2.

¹⁹ Carolyn Rasmussen, *The Lesser Evil: Opposition to War and Fascism in Australia 1920-1941*, The History Department, University of Melbourne, 1992, pp 31-33.

²⁰ P Thorne, *How the Kisch-Griffin Ban was Smashed*, International Labour Defence Publication No 9, nd [1935]; Julian Smith, *On the Pacific Front: The Adventures of Egon Kisch in Australia*, Australian Book Services Ltd, Sydney 1936; Egon Kisch, *Australian Landfall* (translated from the German by John Fisher and Irene and Kevin Fitzgerald), (Foreword by AT Yarwood), McMillan, Australia, 1969; Isabel Carter, *Woman in a Wig - Joan Rosenove QC*, Lansdowne Press, Melbourne, 1970, pp 95-100; Ken Slater, "Egon Kisch: A Biographical Outline", *Labour History*, No 36, May 1979, pp 94-103; David Rose, "The Movement Against War and Fascism, 1933-1939", *Labour History*, No 38, May 1980, pp 76-90; L J Louis, "The Victorian Council Against War and Fascism: A Rejoinder", *Labour History*, No 44, May 1983, pp 39-54; Nicholas Hasluck, *The Legal Labyrinth: The Kisch case and other reflections on law and literature*, Seaview Press, Henley Beach, 2003, esp pp10-15, 25-40; Heidi Zogbaum, *Kisch in Australia: The Untold Story*, Scribe Publications, Melbourne, 2004. The Louis article has the most detail about the actions against Kisch. Zogbaum, p 56, mistakenly refers to CJS as "Mrs Christina Jollie Smith of the firm Jollie Smith and Co".

Alerted to Kisch's impending arrival by the Victorian Police, the Commonwealth Investigation Branch sought information from London and was advised that Kisch had been banned from entering Britain. On the basis of this information, the Commonwealth Investigation Branch recommended that Kisch also be denied entry to Australia.²¹ Accordingly, the Minister for the Interior (E J Harrison) made a declaration excluding Kisch under the Immigration Act. Commonwealth immigration authorities then prevented him from landing at Fremantle.²² The Attorney-General, Robert Menzies, explained that Kisch was 'excluded from Great Britain because of his subversive views and his association with communist organisations' and 'the Commonwealth felt under no obligation to admit persons of this type.'²³ This action led to a four month legal battle in which Christian was to be involved.

On his arrival in Melbourne Kisch was again prevented from leaving his ship, the *Strathaird*. Mrs Joan Rosenove initiated proceedings in the Victorian Supreme Court for a writ for *habeas corpus*. According to her biographer, Rosenove was retained on behalf of Kisch by Katharine Susannah Prichard who paid her in threepences and sixpences.²⁴ While Katharine was a member of the Kisch Reception Committee as were Vance and Nettie Palmer,²⁵ it was the International Labour Defence who organised Kisch's legal representation.²⁶ After adjourning the hearing for a day to enable the Commonwealth to be represented, the Chief Justice of the Supreme Court decided that Kisch was not entitled to land.²⁷ Kisch then jumped from the ship breaking his ankle. He was arrested and replaced on board ship which departed for Sydney.²⁸

While the *Strathaird* sailed northwards, a car containing the papers from the Supreme Court hearing was driven to Sydney arriving before the ship docked. The papers were delivered to Christian who immediately went through them and issued a writ for *habeas corpus* in the High Court.²⁹ Christian briefed Albert Piddington and Tom Parsonage to appear on behalf of Kisch.

²¹ Director, Commonwealth Investigation Branch to Secretary, Department of the Interior, 11 October 1934, NAA A 432/86 Item 1934/1736 Part 1.

²² Louis, *op cit.*, p 43; Zogbaum, *op cit.*, Ch 3.

²³ "Herr Kisch: Reasons for Exclusion", *SMH*, 8 November 1934, p 12.

²⁴ Carter, *op cit.*, p 96.

²⁵ A F Howells, "Inside the 'Movement Against War and Fascism' and 'The Writers League'", *Labour History*, Vol 32, May 1977, p 29.

²⁶ Thorne, *op. cit.*, p 3 and P T Thorne, *Left Wing Political Campaigns of the 1930s*, Oral History Tape B2, University of Wollongong Archives.

²⁷ "Herr Kisch: Habeas Corpus Application", *SMH*, 13 November 1934, p 9. The affidavit and other court documents are in NAA A432/86 Item 1934/1736 Part 3.

²⁸ "Herr Kisch: Attempt to Escape", *SMH*, 14 November 1934, p 13.

²⁹ P T Thorne, *Left Wing Political Campaigns of the 1930s*, Oral History Tape B2, University of Wollongong Archives.

The hearing commenced on 15 November before Mr Justice Evatt.³⁰ On Friday 16 November, while the matter was still being heard Christian's life was placed in jeopardy.

Ernest Lamb, whose former wife Christian had represented in divorce and bankruptcy proceedings, attacked Christian in her office. Christian was alone when Lamb walked in and struck her on the head with a piece of iron piping. The Melbourne *Herald* reported the attack on the front page. From her hospital bed, Christian described her ordeal.

I was in my office preparing affidavits in the Kisch case. Nobody else was in, but suddenly the door opened, a man rushed into the room and then dived at me across my desk. He was armed with a piece of iron piping and I leapt to my feet. The man commenced to beat me about the head and I ran around the table. He chased me and again hit me. I struggled with him and caught his arm. Screaming all the while I struggled out of my room still holding his wrist and somehow managed to get into the passage. I fell against a dentist's door and commenced to pound it with my fist screaming for help. I managed to snatch the piping from his hand then and a dentist came to my assistance.³¹

Christian needed stitches in her head but, according to the newspaper reports, her condition was not regarded as being dangerous. Nettie Palmer was not so sure. By chance, their old school friend Theo Sproule was visiting Christian in Sydney at the time of the attack. When Theo returned to Melbourne on 27 November, Nettie described her as 'pretty tired and anxious because Christian after all isn't better from that blow that was supposed to have left her unharmed. Probably was concussion after all.' Theo was due to leave for England the next day but 'wishes she were leaving for Sydney where Christian needs someone.'³² Christian herself expressed disappointment that she had to miss the Kisch hearing.³³

Justice Evatt's decision was in Kisch's favour and he was released from the *Strathaird* but was immediately re-arrested by immigration authorities. He was then given a dictation test in Scottish Gaelic which he failed and was charged with being a prohibited immigrant.³⁴ When he appeared in the Central Police Court the next day, Piddington appeared for his defence but asked for an adjournment which was opposed by counsel for the Commonwealth. Piddington

³⁰ "Habeas Corpus Application", *SMH*, 16 November 1934, p 6 and "Herr Kisch: High Court Application", *SMH*, 16 November 1934, p 12. The affidavit and other court documents are in NAA A432/86 Item 1934/1736 Part 3.

³¹ "Attacks Woman Lawyer", *The Herald* (Melbourne), 16 November 1934, p1.

³² Diary entry 27 November, Nettie's 1934 diary, *Palmer Papers*, NLA MS 1174/16/16.

³³ "Attacks Woman Lawyer", *The Herald* (Melbourne), 16 November 1934, p1.

³⁴ "Egon Kisch: Arrested on Wharf", *SMH*, 17 November 1934, p 17; Louis, *op cit.*, pp 45-46; Zogbaum, *op cit.*, Ch 4.

argued that he needed time to prepare the case as he had not been able to see his instructing solicitor.

Miss Jollie Smith was the victim of an assault yesterday and I have not yet got instructions from her. There are matters of law and questions of fact to be examined and I shall have to inquire into possible proceedings in another court.³⁵

The Magistrate accepted Piddington's plea and remanded Kisch on bail until the following Friday. When the hearing resumed, Piddington challenged the status of Gaelic as a European language and the implementation of the dictation test.³⁶ However, the magistrate convicted Kisch of being a prohibited immigrant and sentenced him to imprisonment for six months after which he was to be deported. Piddington announced that there would be an appeal.³⁷

On the day following Kisch's conviction, an article appeared in the Sydney *Sun*, to which Christian took exception. The article reported that 'it is stated that Kisch will not be deported immediately [because] he shall serve a portion at least of the gaol term to which he has been sentenced.' The article also commented that 'unless Kisch's appeal succeeds, the longer he delays the action of the law by appeals, the longer he will have to remain in gaol.'³⁸ The *Sun* then went on to describe how Kisch would be treated in gaol. Christian wrote to the Commonwealth Deputy Crown Solicitor in NSW, George Watson, asking whether the statements in the article 'were, as would appear from the article, made or authorised by the Government or any Minister or person acting on behalf of the Government' and warning 'that it is our intention to take immediate steps to prevent a repetition of this attempt to prejudice our client in future proceedings.'³⁹

Proceedings were begun in the High Court for a writ of prohibition preventing the Commonwealth from enforcing the conviction. Christian also instructed Piddington in these proceedings. A rule nisi for prohibition was granted⁴⁰ and the case for the appeal was argued on 17 December before a Full Bench of the High Court. Piddington argued that Gaelic was a dialect and therefore not a European Language within the meaning of Immigration Act 1901.⁴¹ During the hearing, Kisch 'entered on crutches - his right foot still bandaged - in the company

³⁵ "Herr Kisch: Remanded on Bail", *SMH*, 19 November 1934, p 11.

³⁶ "Kisch in Court", *SMH*, 24 November 1934, p 8, "Deportation Suits", *SMH*, 27 November 1934, p 12;

"Language Test", *SMH*, 28 November 1934, p 9.

³⁷ "Egon Kisch: Sentenced to Imprisonment", *SMH*, 29 November 1934, p 8.

³⁸ "Gaol Term; Kisch's Fate: Future Plans", *Sun [Sydney]*, 29 November 1934, p 1.

³⁹ CJS to George Watson, Deputy Crown Solicitor for the Commonwealth in NSW, 29 November 1934, NAA A432/86 Item 1934/1736 Part 3.

⁴⁰ "Prohibition: High Court Grants Rule Nisi", *SMH*, 15 December 1934, p 15.

⁴¹ "Kisch and Gaelic: Validity of the Dictation Test",

of his solicitor, Miss Jollie Smith.⁴² After several days of argument, the High Court upheld Kisch's appeal.⁴³ However, the Commonwealth had not given up its attempt to have Kisch declared a prohibited immigrant and the Kisch case rumbled on into 1935.

Meanwhile Ernest Lamb was charged with assaulting Christian causing actual bodily harm. The police informed the Court that Lamb had said 'I went there for the purpose of doing her in. I want to be committed for trial for this, for murder.' He believed that his life had been ruined by divorce proceedings in which Christian had acted for his wife. Lamb was remanded without bail until 27 November.⁴⁴ However, on the day that he was due to appear in Court Lamb was lying ill in the prison hospital and the case was adjourned until 11 December.⁴⁵ In the event, Lamb never faced Court. Because of his ill health his case was adjourned until 1935 but he died in hospital of heart disease on 12 December, 1934.⁴⁶

Early in 1935, Christian was still fighting the Federal Government's attempts to have Egon Kisch declared a prohibited immigrant. During the High Court hearings in November 1934, there was considerable cable traffic between Australia and England. The Australian government sought further details about Kisch's exclusion from the United Kingdom.⁴⁷ The UK Government was reluctant to become involved but eventually provided a bland statement that Kisch had been excluded because of his known subversive activities. On the basis of this information, Kisch was charged under the Immigration Act 1901-1933 as 'a person who immigrated into the Commonwealth and has been declared by the Minister of State for the Interior, the Minister administering the Act, to be in his opinion, from information received from the Government of the United Kingdom, through official channels, undesirable as an inhabitant of, or visitor to, the Commonwealth.'⁴⁸

When the trial opened in the Central Police Court on 9 January, Christian instructed Piddington to seek an adjournment on the ground that proceedings were being instituted in the High Court against the *Sydney Morning Herald* for contempt of court. The basis for the contempt charge

⁴² "Egon Kisch: Application for Prohibition", *SMH*, 19 December, 1934, p 8.

⁴³ "Egon Kisch Conviction Quashed", *SMH*, 20 December 1934, p 6 and p 11

⁴⁴ "Alleged Assault On Woman Solicitor", *SMH*, 17 November 1934, p 17; "Attacks Woman Lawyer" *The Herald* (Melbourne), 16 November, 1934, p 1.

⁴⁵ Defendant Too Ill to Appear", *SMH*, 28 November 1934, p 9.

⁴⁶ "Man's Death: Attack on Solicitor recalled", *SMH*, 13 December 1934, p 7.

⁴⁷ Nicholas Hasluck, *op cit.*, p 29; Heidi Zogbaum, *op cit.*, pp 61-64

⁴⁸ "Egon Kisch On New Charge", *SMH*, 10 January 1935. Deciphers of the cables and the Minister's declaration are filed on NAA A432/86 Item 1934/1736 Part 3.

was a series of letters and articles published by the *Sydney Morning Herald* mostly critical of the High's Court's decision that Gaelic was not a European language.⁴⁹ Piddington added that Kisch was willing to leave the country but had been unable to obtain his passport and ticket which were being held by Commonwealth authorities. After hearing argument by both parties on the issue of adjournment the trial was adjourned until 14 January.⁵⁰

At the resumption of the trial, the Commonwealth's determination to obtain a conviction against Kisch was evident. When the Magistrate asked what was to be gained by continuing proceedings when Kisch was willing to leave Australia, the New South Wales Attorney-General, who appeared on behalf of the Commonwealth, argued that the Commonwealth wanted a conviction so that Kisch's future movements could be monitored.⁵¹ There followed protracted argument between the parties about the timing of Kisch's departure. The Commonwealth sought his immediate departure and insisted on the Commonwealth's right to determine when he should leave but Piddington argued that Kisch would not agree to his departure before the case against the *Sydney Morning Herald* had been concluded. Christian wrote to the Commonwealth Deputy Crown Solicitor in NSW, George Watson, setting out Kisch's conditions for departure and informing him that 'Kisch is anxious to leave the Commonwealth having been greatly inconvenienced by the enforced extension of time of his visit by some six weeks.'⁵²

The Magistrate hearing the case suggested that Kisch could be bound over without a conviction being recorded to enable him to leave the country but this option was not acceptable to the Commonwealth.⁵³ The next day the Magistrate further suggested that the Court had discretion to release a convicted person without passing sentence provided that he agreed to be bound over to be of good behaviour but this option was rejected by Piddington. Christian again wrote to George Watson stating that 'Kisch would on no account agree to the proposal'.⁵⁴ On 21 January the Magistrate convicted Kisch of being a prohibited immigrant. An application to the

⁴⁹ M M Macdonald "Scottish Gaelic in the West Highlands", *SMH*, 21 December 1934, p 10; James Taylor, "Scottish Gaelic" *SMH*, 26 December 1934, p 3; Don Grant, "Is Gaelic a Language?", *SMH*, 27 December 1934, p 3; Columbinus, "Gaelic and the High Court", *SMH*, 27 December 1934, p 6; "Scottish Gaelic: High Court Decision: Clergyman's Protest", *SMH*, 2 January 1935; No-Gaelic Scot "Scottish Gaelic", *SMH*, 4 January 1935, p 6; Mon Tam Ignoramus, "Gaelic", *SMH*, 7 January 1935, p 4; David A S Campbell, "Gaelic", *SMH*, 5 January 1935, p 10; Aonghus Domnalluch, "Gaelic", *SMH*, 8 January 1934, p 3.

⁵⁰ The Minister was called because there was some doubt within the Commonwealth Attorney-General's Department as to whether his declaration was sufficient in itself (see NAA A432/86 Item 1934/1736 Part 3).

⁵¹ "Kisch Charge: Reason for Prosecution", *SMH*, 15 January 1935, p 12.

⁵² CJS to George Watson, Deputy Crown Solicitor for the Commonwealth in NSW, NAA A432/86 Item 1934/1736 Part 3.

⁵³ "Kisch Charge: Magistrate's Suggestion", *SMH*, 17 January 1935, p 6.

⁵⁴ CJS to George Watson, Deputy Crown Solicitor for the Commonwealth in NSW, NAA A432 Item 1934/1736 Part 3.

High Court was made immediately for a writ of prohibition to restrain the Magistrate from proceeding with the conviction. Mr Justice Evatt, who heard the application, adjourned the case until the conviction had been drawn up with the details of the offence.⁵⁵ On the following day the Magistrate sentenced Kisch to three months imprisonment after which he was to be deported. He was also ordered to pay costs of £52/18/-.⁵⁶

On the same day that Kisch was convicted, the case against the *Sydney Morning Herald* for contempt of court commenced in the High Court before Mr Justice Evatt. Christian again instructed Piddington who appeared with Mr Gordon Farrer on behalf of Kisch. Evatt granted a *rule nisi* calling on the *Sydney Morning Herald* to show cause why it should not be dealt with for contempt of court. The hearing of evidence took up four days commencing on 29 January after which Evatt reserved his decision.⁵⁷ On the day that Evatt was to deliver his decision, and before the decision was delivered, counsel for the *Sydney Morning Herald* offered an apology to the Court expressing ‘deep regret for some of the statements contained [in the letters] which upon examination are found to be inaccurate, intemperate and, unfortunately, offensive. In his decision, handed down on 6 February, Evatt was critical of the *Sydney Morning Herald’s* reporting of the High Court’s decision and its handling of the subsequent letters, four of which he described as exceeding the limits of fair criticism. However, as the *Sydney Morning Herald* had published two letters which discussed the case fairly and had not unfairly selected letters out of proportion with total correspondence received, he dismissed the application without costs but without prejudice to any proceedings that Kisch might take before the State Supreme Court.⁵⁸

The day before he handed down his decision on the *Sydney Morning Herald’s* alleged contempt of court, Evatt had heard the application by Kisch for an order preventing the Magistrate of the Sydney Central Police Court and the prosecution from proceeding with his conviction of being a prohibited immigrant. Evatt granted the application and set 19 March as the date for hearing. Piddington, instructed by Christian, sought an earlier hearing on the grounds that his client was anxious to get away. Evatt responded that ‘the defendant seemed anxious to get away the prosecution seemed anxious that he should get away and perhaps he could get away with the

⁵⁵ “Egon Kisch: Magistrate Convicts. Appeal to High Court”, *SMH*, 22 January 1935, p 10.

⁵⁶ “Kisch Sentenced”, *SMH*, 22 January 1935, p 14.

⁵⁷ “Contempt Alleged”, *SMH*, 22 January 1935, p6; 30 January 1935, p 10; 31 January 1935, p5; 1 February 1935, p 6; and 2 February 1935, p 10.

⁵⁸ “Contempt Alleged”, *SMH*, 7 February 1935, p 5. The *SMH* had clearly learned its lesson. It published Mr Justice Evatt’s decision in its entirety.

consent of the prosecution.⁵⁹ Indeed, negotiations between Christian and George Watson, which had commenced in late January, resulted in Kisch's departure before that date.⁶⁰ The Government's increasing embarrassment over the handling of the case against Kisch together with a public campaign protesting against his treatment meant that the Government was anxious to secure Kisch's departure as soon as possible.⁶¹ An agreement was finally reached on 26 February. The terms of the agreement were that Kisch's sentence would be remitted, that the costs of the legal proceedings would be borne by the Commonwealth, that he would be allowed to leave Australia without restriction and his passport dealt with as for an ordinary visitor.⁶²

On the question of costs, Christian had claimed a total of £694/3/11 on behalf of Kisch but the Commonwealth offered only £450. The item 'solicitors' costs', which would have been mostly Christian's fees, suffered the greatest reduction. Christian had claimed £260/11/11 but this was reduced to £141/15/-. The offer was made with a threat that proceedings would continue if not accepted. Given that the costs of counsel for the Crown, around £630, were accepted by the Commonwealth without question, it would seem that the Commonwealth was acting vindictively in pruning Christian's total claim by more than one-third.⁶³ This was done in spite of the fact that the Kisch case had been poorly handled by the Commonwealth authorities. As noted by Geoffrey Sawer, 'technical mistakes in the handling of the immigration control laws resulted in the men concerned [Egon Kisch and Gerry Griffin] spending as much time as they wanted in Australia, and the episode exposed the Government, and in particular Menzies [Attorney-General] and Paterson [then Minister for the Interior] to much ridicule.'⁶⁴

Challenging the Government

After the departure of Kisch, Christian's practice became more routine but still very busy. Over the next four months, she handled six uncontested divorce cases.⁶⁵ In addition, she handled one successful⁶⁶ and one unsuccessful appeal⁶⁷ and one unsuccessful⁶⁸ and three successful

⁵⁹ "Kisch Case: Appeal Against Conviction", *SMH*, 6 February 1935, p 9.

⁶⁰ L J Louis, "Victorian Council Against War and Fascism", *Labour History*, No 44, 1983, p 44.

⁶¹ Louis suggests that another factor behind the Government's anxiety for Kisch's departure was the desire of the Attorney-General, Mr Menzies, to attend the King's Silver Jubilee celebrations in London.

⁶² *ibid.*

⁶³ Settlement of proceeding against Kisch, NAA A432/86 Item 1934/1736 Part 3.

⁶⁴ Geoffrey Sawer, *Australian Federal Politics and Law 1929-1949*, MUP, 1963, p 70.

⁶⁵ "South v South", *SMH*, 16 February 1935, p 12; "Wilkinson v Wilkinson", *SMH*, 8 March 1935, p 7; "Hay v Hay", *SMH*, 10 May 1935, p 8; "Rathbun v Rathbun", *SMH*, 17 May 1935, p 8; "Bobbs v Bobbs", *SMH*, 28 May 1935, p 6; "Stevens v Stevens", *SMH*, 26 June 1935, p 10.

⁶⁶ "Police Officers Sued", *SMH*, 19 February 1935, p 6.

⁶⁷ "Claim Against Railway Commissioner", *SMH*, 4 April 1935, p 6 and 5 April 1935, p 9.

⁶⁸ "Aggravated by Conditions", *SMH*, 2 April 1935, p 8; "An Unsuccessful Claim", *SMH*, 25 April 1935, p5.

compensation claims.⁶⁹ She also received a visit from Nettie Palmer and her daughter Aileen on 20 March a few days after Christian's fiftieth birthday. Nettie and her husband were on their way to Europe, where Nettie attended the first International Congress of Writers for the Defence of Culture in Paris, and spent some months living in Spain before returning in October 1936.⁷⁰ Nettie lunched with Christian and Harry Thorne, Christian's managing legal clerk, during which they discussed the Kisch case.⁷¹ Nettie did not record any comment about Christian's health in her diary so it would appear that she had recovered from her ordeal the previous November.

On 10 June, the campaign against the Commonwealth Government over the Communist literature bans entered a new phase when William Thomas, the editor of *The Soviets Today*, took out a High Court writ to restrain the Commonwealth from destroying copies of his magazine and from preventing the transmission of the publication through the post. He also claimed £5,000 damages.⁷² The Commonwealth had been forewarned of the probability of this action and were concerned that their defence would fail. On 15 May, the Secretary of the Attorney-General's Department advised the Postmaster-General that 'I must confess that an application by that body [FOSU] for a mandamus to compel you to transmit 'Soviets Today' through the post, I feel considerable doubt as to whether the Commonwealth would be successful.' He also advised the Acting Attorney-General that he had been 'unable to find any statement in the publication which directly advocates the overthrow by force or violence of the Government of the Commonwealth or any other civilised country.' While *The Soviets Today* eulogised and defended the Soviet system of government and presented an attractive picture of life in Russia, 'and there is no doubt in my mind that the publication is intended to serve as Communist propaganda...it would be very difficult to produce evidence satisfactory to a Court that the publication is issued for and on behalf of an unlawful association.'⁷³ Similar advice was provided to the Government but apparently taking the view that attack was the best form of defence, Cabinet decided to apply to the High Court to have FOSU declared an unlawful association.

The Government sought legal advice from counsel (Mr Thomas Bavin KC, a former conservative NSW premier, and Mr Bowie Wilson) as to the likelihood of success. Counsel

⁶⁹ "Struck with Hammer", *SMH*, 3 April 1935, p 9; "Struck a Fence", *SMH*, 5 April 1935, p 9; "Incidents at Stadium" and "Stadium Scene", *SMH*, 17 April 1935, p 9 and p 17; "Woman's Claim", *SMH*, 18 April 1935, p 7.

⁷⁰ Geoffrey Searle, "Edward Vivian (Vance) Palmer", *ADB*, 127 and D J Jordan, "Janet Gertrude Palmer", *ADB*, p130

⁷¹ Diary Entry 20 March 1935, *Palmer Papers*, NLA MS 1174/16/17. Nettie made no comment on Smith's recovery from the assault.

⁷² Louis, *op cit*, p 45. A copy of the writ is on NAA A467/1 SF42/49.

⁷³ Secretary Attorney-General's Department to Acting Attorney-General, NAA A467/1 SF 42/49.

warned that ‘if evidence were limited to the Constitution and propaganda of FOSU itself we do not think that there is any ground for such an application’ to have FOSU declared an unlawful association. However, if FOSU could be linked to the Communist Party of Australia ‘which appears to be an unlawful association’, then FOSU would be forced to either disprove the link or show that the Communist Party was not an unlawful association. ‘On the information that has been placed before us it appears that there is ground for supposing they would be unable to do so.’⁷⁴ On the basis of this advice, the Commonwealth issued summonses which revealed its intention to apply to the High Court on 2 October for the FOSU and CPA to show cause why they should not be declared unlawful associations.⁷⁵

The *Workers’ Weekly* organised mass protests against the Government’s proposed action⁷⁶ and Christian was retained by the CPA to organise its defence. However, before she could begin work on this case there were three damages claims to be dealt with. Again there were mixed fortunes as one case was unsuccessful⁷⁷ and two were successful.⁷⁸ In one of the successful claims Christian’s client was awarded substantial damages of £500. Cases such as these became the second staple, after divorce petitions, of Christian’s legal practice. Successful damages claims usually included an award for costs which would have made them financially rewarding for Christian. However, she also seems to have taken on some clients whose cases appear to have had little chance of success. Large damages claims against different employers on behalf of clients heard on 8 October,⁷⁹ 9 October⁸⁰ and 19 December⁸¹ failed because there was no evidence that the employers had acted maliciously or without reasonable cause. In another case Christian’s client attempted to sue a doctor for negligent and unskilful treatment. On the day of the hearing Christian’s counsel asked for the case to be withdrawn from the list as certain evidence was not yet available. Defence counsel objected to the delay and the judge ruled that Christian’s client should pay the costs of the abandoned hearing.⁸²

⁷⁴ Louis, *op cit.*, p 44. A Copy of the opinion is on NAA A467/1 SF42/49.

⁷⁵ “Communist Party: Commonwealth to Seek Declarations”, *SMH*, 22 August 1935, p 9; “Crimes Act to be Invoked Against Communist Party”, *Workers’ Weekly*, 23 August 1935, p 1.

⁷⁶ “Crimes Act to be Invoked Against Communist Party”, *Workers’ Weekly*, 23 August 1935, p 1; “Communist Party Declaration on Crimes Act”, *Workers’ Weekly*, 27 August 1935, p 1.

⁷⁷ “Action Against Dentist”, *SMH*, 29 August 1935, p 6; 30 August 1935, p 8; 31 August 1935, p 10. McClemens was also a member of Clive Evatt’s chambers.

⁷⁸ “Injuries in Motor Accident”, *SMH*, 25 September 1935, p 8 and 26 September 1935, p 7; “Transport Commissioner Sued”, *SMH*, 27 September 1935, p 8; “£500 Awarded Woman”, *SMH*, 28 September 1935, p 10.

⁷⁹ “Verdict by Direction”, *SMH*, 9 October 1935, p 9.

⁸⁰ “False Imprisonment Alleged”, *SMH*, 10 October 1935, p 7.

⁸¹ “A Wireless Set”, *SMH*, 20 December 1935, p 7.

⁸² “Claim against Doctor”, *SMH*, 7 December 1935, p 14

Meanwhile, the Communist Party decided to take a pro-active stance in its defence against the Commonwealth Government's attempt to have it declared unlawful.⁸³ The summonses issued by the Commonwealth were very vague and the CPA and FOSU decided to seek further information. Consequently, on 6 September two members of the CPA, together with a representative of FOSU, applied to the High Court, to be given more details. Christian briefed Tom Parsonage to appear on behalf of her clients, two members of the Communist Party. Justice Evatt adjourned the hearing after advising the parties that if they required more information about the Commonwealth's summonses they should make a specific request.⁸⁴ When the case again came before the court on 2 October, there was further argument about how the case should proceed. For this hearing, Maurice Blackburn and Fred Paterson were instructed by Christian on behalf of her clients. Fred Paterson was a member of the Communist Party and would become the only Communist to be elected to any parliament when elected MLA for Bowen, in the Queensland House of Assembly, in 1944.⁸⁵ Without coming to any decision, Evatt adjourned the hearing of the Commonwealth's summonses.⁸⁶ On 6 November, Justice Evatt made suggestions about the conduct of the hearing of the summonses against the CPA and FOSU, suggested a hearing date in December and advised the Commonwealth to provide more information to FOSU and the CPA to enable them to prepare their defence.

On 18 November, William Thomas, who was suing the Commonwealth for damages for the destruction of the magazine *The Soviets Today*, applied for an order directing the Commonwealth to provide details of the alleged offences. Justice Evatt made an order for mutual discovery of documents.⁸⁷ However, no further action was taken in these cases until September 1936 when counsel for FOSU, Fred Patterson, asked the High Court to sit in Brisbane in order to take evidence from witnesses.⁸⁸ The lengthy delay was most probably due to the Commonwealth Government's concern that their case against FOSU and the CPA would fail in the High Court and that Thomas would succeed in his case against the Commonwealth.⁸⁹ Meanwhile the CPA and FOSU were left in a condition of uncertainty about their status which may have suited the Government.⁹⁰

⁸³ "Communist Party To Resist Declaration", *SMH*, 6 September 1935, p 9

⁸⁴ "Friends of Soviet: Application to Court", *SMH*, 7 September 1935, p 10

⁸⁵ Ross Fitzgerald, *The People's Champion: Fred Paterson*, UQP, 1997.

⁸⁶ "Federal Crimes Act", and "Communist Party: Declarations Sought: Hearing Adjourned", *SMH*, 3 October 1935, pp 7 and 8.

⁸⁷ "Friends of the Soviet", *SMH*, 19 November 1935, p 6; "Destroyed 'Soviets'", *SMH*, 21 November 1935, p 6.

⁸⁸ "Alleged Unlawful Association" and "Friends of Soviet Union", *SMH*, 12 September 1936, pp 10 and 17.

⁸⁹ "Communist Party of Australia and the Friends of the Soviet Union: Crimes Act 1914-32 – Action by the Commonwealth", NAA, A432/85 Control Symbol 1935/779 Part 2.

⁹⁰ Frank Cain, "ASIO and the Australian Labour Movement - An Historical Perspective", *Labour History*, No 59, May 1990, p 2.

Defending the seamen

Towards the end of the year a seamen's strike and the Government's response produced several cases for Christian's practice. On 3 December 1935 discontented seamen in all States resolved to strike over the terms of a new award.⁹¹ While the immediate cause of the strike was an unfavourable award handed down on 8 November, industrial unrest had been simmering for more than a year. The shipping industry was one of the first to recover from the depression and profits had improved significantly. The shipping companies had therefore invested heavily in new ships and were determined to maximise profits. There were also close relationships between the shipping interests and the United Australia Party: for example, the Australian Steamship Owners' Federation (ASOF) paid a retainer to the Attorney-General, Robert Menzies. When, in March 1935, seamen held up a ship in Melbourne the ASOF appealed to the Government to prevent such stoppages. In response, the Government prepared new regulations under the Transport Workers' Act requiring seamen to be licensed in order to gain employment. When the seamen decided to strike on 3 December they were threatened that the new regulations would be gazetted if they did not return to work within 48 hours. They did not and the regulations were gazetted on 10 December.⁹²

On 13 December, Christian briefed Fred Paterson to appear on behalf of Eliot V Elliot, a seaman and Assistant Secretary of the Central Strike Committee, in a High Court application for an injunction restraining the Commonwealth from enforcing the regulations. The choice of Elliot as plaintiff seems to have been deliberate. He had no assets so that if the application for an injunction was lost and costs were awarded against the plaintiff then they could not be recovered.⁹³ While Elliot was not then a member of the Communist Party, he was elected Queensland Secretary of the Seamen's Union in 1937 after which he joined the CPA.⁹⁴ Mr Justice Evatt, who initially heard Elliot's application, referred it to a Full Bench hearing.⁹⁵ When the application for an injunction came before the Full Bench on 16 December, Paterson argued that the regulations contravened Section 92 of the Constitution, which provides for free

⁹¹ L J Louis "Recovery from the Depression and the Seamen's Strike of 1935-36", *Labour History*, No 41, November 1981, pp 74-86. The following account is based on this article.

⁹² "Wharfmen Rebuff the Strikers. Licenses Issued.", *SMH*, 12 December 1935, p 11.

⁹³ Deputy Crown Solicitor for New South Wales to Crown Solicitor, 12 October 1956, NAA A 435/83, 1935/1695 Part 3.

⁹⁴ Brian Fitzpatrick and Rowan J Cahill, *The Seamen's Union of Australia 1872-1972 – A History*, Seaman's Union of Australia, Sydney, 1981, pp107-109.

⁹⁵ "Transport Workers' Act: Application for Injunction", *SMH*, 14 December, 1935, p 14 and "Strike Deadlock Reached", *SMH*, 14 December, 1935, p 17; "Dog Collar Act Legality To Be Tested", *Workers' Weekly*, 17 December 1935, p 3.

trade between the States, and Section 99 which provides that there should be no preference given to one State over another. The Court reserved its decision which was handed down in March 1936.⁹⁶ The majority of the Court decided that the regulations did not contravene Sections 92 and 99 of the Constitution as claimed. Justices Evatt and Dixon dissented arguing that the licensing regulations did contravene Section 99.⁹⁷

Meanwhile, in January 1936, a dispute developed within the Seamen's Union between rival candidates for the position of General Secretary in an election for office bearers being held concurrently with the strike. Joe Keenan, a member of the Communist Party and a member of the strike committee, was challenging the incumbent, Jacob Johnson, for the position. The ballot papers had been returned but the Returning Officer, J Simpson, had been unable to collect them because Johnson, who had the key to the post-box, refused to relinquish it. The Post Office also refused to deliver the ballots without the key. Simpson sought legal advice from Christian and issued a writ calling on the Post Office to show cause why the ballots were being retained.⁹⁸ The matter came before Mr Justice Evatt in the High Court on 20 January. Christian briefed Frank Dwyer and Tom Parsonage to appear on Simpson's behalf. The impasse was resolved when the Post Office undertook to deliver the ballot papers to Simpson.⁹⁹

While the seamen's strike continued, Christian prepared for another case on behalf of Eliot Elliot who initiated proceedings in the High Court against the Attorney-General, Robert Menzies, and the *Sydney Morning Herald* for contempt of court. The *Sydney Morning Herald* had reported a speech by Menzies delivered after receiving a deputation from the seamen's strike committee on 18 December. In the speech, Menzies had stated that the licensing regulations were lawful when their validity was under consideration by the Court. The case was heard before Mr Justice Evatt on 4 February and Christian briefed Frank Dwyer on behalf of Elliot. After hearing the evidence Evatt referred the matter to the Full Court.¹⁰⁰ Menzies was scheduled to leave Australia to represent the Commonwealth before the Privy Council and was granted permission to leave the country by the Court.¹⁰¹

⁹⁶ "Licensing System Challenged", *SMH*, 17 December 1935, p 5 and p 10; "High Court on the Seamen", *Workers' Weekly*, 20 December 1935, p 3.

⁹⁷ "The Seamen. Judgement Given", *SMH*, 7 March, 1936, p 18. See also Fitzpatrick and Cahill, *op cit.*, pp 85-86.

⁹⁸ "Seamen's Ballot: Counting Held Up", *SMH*, 14 January 1936, p 10.

⁹⁹ "Seamen's Ballot", *SMH*, 21 January 1936, p 10 and p 11. See also Fitzpatrick and Cahill, *op cit.*, pp 79-80.

¹⁰⁰ "Contempt Alleged", *SMH*, 5 February 1936, p 10 and p 12.

¹⁰¹ "Mr Menzies Permitted to Leave Australia", *SMH*, 14 February 1936, p 36.

The Full High Court heard the claim for contempt of court against Menzies and the *Sydney Morning Herald* on 23 April. The court dismissed the motion on the ground that Menzies' speech and its publication were not prejudicial to Elliot's case.¹⁰² Costs were awarded against the plaintiff, Elliot. The Commonwealth Deputy Crown Solicitor for New South Wales sent a demand for payment of £84/6/3 plus interest to C Jollie Smith and Co but the demand was ignored. The Commonwealth Investigation Branch reported that Elliot was unemployed and without assets. The Deputy Crown Solicitor recommended that, in the circumstances, the amount be written off as irrecoverable and the Attorney-General's Department agreed.¹⁰³

Calmer waters

After the public drama of the political cases of the previous three years Christian's practice entered calmer waters. Much of the remainder of 1936 was taken up with eight cases against the Commissioner for Railways in disputes over the appropriate level of compensation for railway workers who had returned to work after being injured. Injured railway workers became a significant source of work for Christian. New South Wales had an extensive rail network, second only to Queensland in length and about a quarter of the total rail network in Australia. Men employed in maintaining the lines were often injured sometimes fatally. Although there are no separate figures for New South Wales, between one thousand and two thousand railway workers were injured in Australia each year during the 1930s.¹⁰⁴ Of the eight cases on behalf of injured railway workers Christian handled in 1936, five were concluded favourably for her clients.¹⁰⁵

The Worker's Compensation Act and the Government Railways Act were not the only source of compensation cases. The Compensation for Relatives Act 1897 (as amended) provided for compensation to relatives killed in accidents caused by wrongful act, neglect or default. In March Christian took on the case of a widow whose husband was killed in his home when a wall from a neighbouring building fell on it during a fire. The widow sued the occupier of the building for £3,000 under the Compensation for Relatives Act, alleging negligence. Mr Justice

¹⁰² "Contempt of Court Case Dismissed", *SMH*, 24 April 1936, p 5 and p 7.

¹⁰³ Deputy Crown Solicitor for New South Wales to Crown Solicitor, 12 October 1936, NAA A 435/83, 1935/1695 Part 3.

¹⁰⁴ Wray Vamplew, *op cit.*, pp 168, 173.

¹⁰⁵ "Government Railways Act", *SMH*, 18 February 1936, p 6; "Wages Claims", *SMH*, 15 May 1936, p 7 and 16 May 1936, p 10; "Leave Refused", *SMH*, 26 August 1936, p 10; "Government Railways Act", *SMH*, 27 February 1936, p 8; "Railwayman's Claim", *SMH*, 1 May 1936, p 8; "Government Railways Act", *SMH*, 29 May 1936, p 8 and 30 May 1936, p 10; "'Common Justice': Rail Employees' Rights", *SMH*, 29 May 1936, p 12; "Difference in Wages", *SMH*, 2 June 1936, p 8 and 3 June 1936, p 9; "Railway Employee's Claim", *SMH*, 9 June 1936, p 8.

Bavin ruled that there was no evidence of negligence and dismissed the case before it could be considered by the jury.¹⁰⁶ Christian's client appealed to the Full Court. The appeal was heard in May and Christian's client was awarded a new trial.¹⁰⁷ In October the matter was settled. Christian's client received £850 and £350 was made available for legal costs.¹⁰⁸

There were also several other cases where Christian sued for damages on behalf of her clients: an unsuccessful claim for a client who had been injured at Luna Park;¹⁰⁹ a successful claim by a client who had been injured when she was thrown to the ground while attempting to alight from a bus;¹¹⁰ and a successful claim on behalf of a wharf labourer who was injured when struck by a taxi.¹¹¹ There was also the successful defence of a client who had been charged with manslaughter arising from a car accident in which a pedestrian was killed;¹¹² and the successful resolution of a dispute over the ownership of a balalaika.¹¹³ Meanwhile, there were several cases in the Court of Petty Sessions involving seamen. One seaman, who was accused of assaulting a volunteer causing him actual bodily harm, had been out of work since the strike. He was convicted and sentenced to eighteen months imprisonment.¹¹⁴ Two other seamen were charged with assault and robbery during the strike pleaded an alibi and were acquitted.¹¹⁵

During 1936, Christian also appeared on behalf of her clients in a number of uncontested divorce cases.¹¹⁶ In June, C Jollie Smith and Co was represented by Mr Sweeney in a divorce case for the first time.¹¹⁷ John Bernard Sweeney was born in Wellington, New Zealand, in February 1911. He was educated at Fort Street High and the University of Sydney.¹¹⁸ He was admitted as a solicitor on 4 May 1933 and appears to have set up practice alone at 8A Castlereagh Street¹¹⁹ until mid 1936 when he taken on as a solicitor by Christian. Perhaps he had struggled to become established as a sole practitioner and joining C Jollie Smith and Co

¹⁰⁶ "Fire at Cessnock", *SMH*, 1 March 1936, pp 9 and 14; 12 March 1936, p 7; 13 March 1936, p 6; 14 March 1936, p 10.

¹⁰⁷ "A Fire at Cessnock", *SMH*, 21 May 1936, p 5; 22 May 1936, p 6; 29 May 1936, p 8.

¹⁰⁸ "Fire at Cessnock", *SMH*, 24 October 1936, p 10.

¹⁰⁹ "Luna Park Case", *SMH*, 9 June 1936, p 8 and 11 June 1936, p 5.

¹¹⁰ "£3000 Claimed", *SMH*, 23 June 1936, p 6; "Damages Against Bus proprietors", *SMH*, 24 June 1936, p 8.

¹¹¹ "Wharf Labourer's Action", *SMH*, 1 July 1936, p 10 and 2 July 1936, p 6.

¹¹² "Acquitted of Manslaughter Charge *SMH*, 25 June 1936, pp 5 and 6.

¹¹³ "Ownership of Russian Instrument", *SMH*, 25 June 1936, p 5.

¹¹⁴ "Case adjourned", *SMH*, 9 June 1936, p 8; "Seaman Sentenced", *SMH*, 10 June 1936, pp 8 and 10.

¹¹⁵ "Alleged Robbery", *SMH*, 25 March 1936, p 9; "Not Guilty", *SMH*, 26 March 1936, p 7; "Not Guilty of Robbery", *SMH*, 6 June 1936, p 12.

¹¹⁶ "Russell v Russell", *SMH*, 29 February 1936, p 14; "Ladyman v Ladyman", *SMH*, 3 March 1936, p 6; "Quinn v Quinn", *SMH*, 9 April 1936, p 6; "South v South" and "Hawkins v Hawkins", *SMH*, 5 May 1936, p 6; "Cotterell v Cotterell" and "Macdougall v Macdougall", *SMH*, 6 May 1936, p 10.

¹¹⁷ "Harries v Harries", *SMH*, 20 June 1936, p 4.

¹¹⁸ "John Bernard Sweeney", *Who's Who in Australia 1965*, p 823.

¹¹⁹ *New South Wales Law Almanac for 1934*.

would help him to become established as well as to ease Christian's workload. He frequently undertook divorce cases for Christian, particularly when there were multiple cases on the same day¹²⁰ while she handled the remainder.¹²¹ He left C Jollie Smith and Co in 1940 and again established himself as a sole practitioner at 104 Hunter Street.¹²²

In July 1936, civil war broke out in Spain. In the February 1936 elections, the Popular Front, comprising centre-left and left-wing parties, had narrowly won the vote but gained an absolute majority of seats in the Spanish Parliament, the Cortes. Ignoring the narrowness of their victory, they proceeded to act as if they had a mandate for revolutionary change. The right, including the monarchists, the Catholic Church and the army, was horrified at the direction of events and began to talk about overthrowing the government. As the level of political violence and strikes increased, the leaders of the Spanish army plotted a coup and in July the army garrisons in Spanish Morocco and mainland Spain rebelled.¹²³

In August, the Movement Against War and Fascism and International Labour Defence called a meeting in Sydney to initiate a campaign to provide medical aid for the legitimately elected Spanish Government. The Spanish Relief Committee was formed to oversee the campaign.¹²⁴ It is not clear whether Christian attended this initial meeting but she became a member of the Committee. Former Senator Arthur Rae was Treasurer and Phillip Thorne, the brother of Christian's managing law clerk Harry Thorne, was elected Secretary of the Relief Committee.¹²⁵ The Committee's main task was raising money for ambulances, general medical aid and food, and it met weekly but Christian was not noted as being present at any meeting in 1936 and 1937.¹²⁶ The meetings were held in the mornings and Christian may have been too busy to attend.

The by-now routine work of Christian's practice continued through the latter part of 1936. There was a claim for damages by a client who sued two policemen for unlawful arrest, assault and imprisonment. After three days of evidence, the Chief Justice of the Supreme Court

¹²⁰ "Wicks v Wicks", *SMH*, 11 September 1936, p 7; "Hannant v Hannant", *SMH*, 4 December 1936, p 8; "Mildner v Mildner", *SMH*, 19 December 1936, p 9.

¹²¹ "Brown v Brown" and "Taylor v Taylor", *SMH*, 19 August 1936, p 11; "Langridge v Langridge", and "Wallace v Wallace", *SMH*, 4 December 1936, p 8; "Dinger v Dinger" and "Rodstrom v Rodstrom", *SMH*, 18 December 1936, p 6; "Gillespie v Gillespie" and "Ingle v Ingle", 19 December 1936, p 9.

¹²² *New South Wales Law Almanac for 1941*.

¹²³ Derived from Antony Beevor, *The Battle for Spain: The Spanish Civil War 1936-1939*, Weidenfield and Nicholson, London, 2006, pp 34-56.

¹²⁴ Records of the Spanish Relief Committee, *PT Thorne Papers*, NBAC, ANU, P15/3/1.

¹²⁵ Thorne, Oral History Tape, *op cit*.

¹²⁶ Minutes of the Spanish Relief Committee, *op cit*.

instructed the jury that what the policemen had done was illegal and amounted to a serious infringement of the rights of a citizen. The jury awarded Christian's client £300 damages.¹²⁷ There was a case before the Commonwealth Conciliation and Arbitration Court on behalf a member of the Australian Workers' Union who alleged that he and others were prevented from nominating for executive positions because of oppressive rules which gave the union's executive power to refuse to accept nominations. Christian briefed Fred Paterson to appear on behalf of her client. The Chief Judge ruled that parts of the unions' rules relating to nominations of candidates for the executive did operate to restrict freedom of nomination and therefore contravened the regulations gazetted under the *Commonwealth Conciliation and Arbitration Act*.¹²⁸ This case was followed by another case before the Workers' Compensation Commission in which Christian's client sought compensation for the death of her husband who had been electrocuted while repairing the radiator of a truck. Her client was awarded £400 compensation.¹²⁹ One of the last cases that Christian handled in 1936 was a divorce petition by the wife of Herbert Moxon, the former General Secretary of the Communist Party of Australia. Moxon and his wife, formerly Dulcie Odgers, had been married in the District Registrar's Office in July 1931.¹³⁰ At the time of his marriage Moxon was the subject of negative criticism within the Party and he was eventually expelled in July 1932.¹³¹ Dulcie sued for divorce on the grounds of desertion. Her application was not contested by Moxon and she was granted a divorce.

The unexciting routine continued into 1937 beginning with two cases in the Court of Quarter Sessions. In the first case her client had been accused of knowingly uttering a counterfeit coin but was found not guilty and acquitted.¹³² The second case was on behalf of two men who were charged with conspiracy to defraud involving between £35,000 and £40,000. The trial lasted thirteen days but in the end the jury failed to agree after having been locked up for the night.¹³³ While this trial was in progress, there was another damages case against the Commissioner for Railways on behalf of a man who had fallen down a flight of steps at Bankstown railway station

¹²⁷ "Police Officers Sued", *SMH*, 17 September 1936, pp 6, 10; and 19 September 1936, pp 10, 17.

¹²⁸ "Alleged Tyrannical Rules", *SMH*, 21 October 1936, pp 11 and 15; *Commonwealth Arbitration Reports*, Vol. 36, 1936, pp 592-597.

¹²⁹ "Loss of Husband", *SMH*, 28 October 1936, p 11.

¹³⁰ "Moxon v Moxon", *SMH*, 1 December 1936, p 8.

¹³¹ Beris Penrose, "Herbert Moxon, a victim of the 'Bolshevisation' of the Communist Party", *Labour History*, No 70, May 1996, pp 92-114.

¹³² "Alleged Uttering of Counterfeit Coin", *SMH*, 5 March 1937, p 5; "Acquitted of Uttering Counterfeit Coin", *SMH*, 6 March 1937, p 10.

¹³³ "Alleged Conspiracy", *SMH*, 10 March 1937, pp 10, 13; 11 March 1937, p 5; 12 March 1937, p 6; 13 March 1937, p 10; 16 March 1937, p 7; 17 March 1937, p 10; 18 March 1937, p 6; 19 March 1937, p 6; 20 March 1937, pp 10, 17; 23 March 1937, p 12; 24 March 1937, p 12; 25 March 1937, pp 7, 19; 26 March 1937, p 8.

breaking his leg. However, the jury was unable to agree on a verdict and was discharged.¹³⁴ An uncontested divorce application was also heard.¹³⁵ However, after this flurry of activity there was another lull until the end of May when there were further developments in the Commonwealth Government's cases against the CPA and FOSU.

To the surprise of many, on 20 May 1937 counsel for the Commonwealth Government indicated that it had agreed to withdraw its actions against the CPA and the FOSU before the High Court. Also withdrawn was William Thomas' actions against the Commonwealth Government. Christian appeared for the CPA and FOSU but the *Sydney Morning Herald* reported that the proceedings took only three minutes. No explanation for the withdrawal was given to the Court.¹³⁶ The *Workers' Weekly* hailed the result as a 'triumph for the democratic forces of Australia which responded so strongly to the agitation against the Crimes Act!'¹³⁷ However, the outcome, which was engineered by private negotiations in the background, may have had more to do with the government wanting to avoid embarrassment.

Maurice Blackburn, one of the counsel for the CPA and FOSU, had written privately to Menzies in September 1936 proposing the reciprocal abandonment of proceedings, without costs, together with the removal of postal bans. Blackburn also gave an undertaking that these arrangements would not be made public. Not having received any response, Blackburn wrote to Menzies again in January 1937. Blackburn had still not received a response when the matters again came before the High Court in closed session in April. The Court was informed that the Government wanted more time to consider certain representations that had been made to the Attorney-General (Menzies). Justice Evatt refused and fixed 17 May as the date for the hearing. Evatt's action prompted Menzies to write privately to Blackburn agreeing to the proposed settlement. Immediately after the hearing on 20 May, the postal bans were also removed. The official explanation that Menzies gave Parliament was that he was reluctant to proceed while the Crimes Act was under review but the truth was that 'it appeared that the action of the Commonwealth against the Friends of the Soviet Union would fail and that Thomas' action would succeed. It was decided to settle the action on the best terms possible.' A potentially embarrassing outcome for the Government had therefore been avoided. While the *Workers'*

¹³⁴ "Fall Down Railway Steps", *SMH*, 16 March 1937, p 7 and 17 March 1937, p 10.

¹³⁵ "Walker v Walker", *SMH*, 23 March 1937, p 8.

¹³⁶ "Cases Withdrawn", *SMH*, 21 May 1937, pp 7, 11.

¹³⁷ "CP Case Dropped!", *Workers' Weekly*, 21 May 1937, p 1.

Weekly triumphantly proclaimed that ‘the legality of the Communist Party and the Friends of the Soviet Union is no longer in question’, Menzies would fight another day.¹³⁸

Just what role Christian played in the settlement negotiations is difficult to discern but it is clear from the file on the matter that she and her staff were in the loop. Jack Sweeney and her law clerk, Harry Thorne, represented her when the matters were heard in closed court in April and Blackburn consulted the ‘solicitors for the parties concerned’ before he came to the final agreement with Menzies in May. George Watson, the Commonwealth Deputy Crown Solicitor in New South Wales, also reported that ‘Miss Jollie Smith [was] not anxious for the question of costs to be raised and undertook in writing that no application for costs would be made.’¹³⁹

During the remainder of 1937 Christian’s practice mainly comprised damages claims. In June her client, a twelve-year-old boy who had suffered a skull fracture when struck by a motor vehicle, was awarded £500.¹⁴⁰ In August, in another case involving a motor vehicle, her client was awarded £135/5/3.¹⁴¹ In a claim against the Commissioner for Railways, heard in September, her client was a woman with seven children whose husband had been killed in an accident at Wallerawang railway yards. The action was settled on payment of £1,185.¹⁴² In the rehearing of the case against the Commissioner for Railways, in which her client sued for damages for injuries received when he fell down a flight of steps at Bankstown Railway Station, the jury agreed to award damages of £1,000 plus £45/11/- in out-of-pocket expenses. The Commissioner applied for a stay of proceedings which was granted by the Judge who suggested that the parties confer on a settlement,¹⁴³ but the Commissioner for Railways appealed to a Full Bench of the Supreme Court for a new trial which was dismissed.¹⁴⁴ The Commissioner for Railways then appealed against the Supreme Court’s decision in the High Court but the High Court unanimously dismissed the Commissioner’s appeal with costs.¹⁴⁵ Appeals took up much of the remaining months of 1937.¹⁴⁶

¹³⁸ The information in this paragraph was derived from L J Louis, “The Victorian Council Against War and Fascism: A Rejoinder”, *Labour History*, no 44, May 1983, p 46.

¹³⁹ “Communist Party of Australia and the Friends of the Soviet Union: Crimes Act 1914-32 – Action by the Commonwealth”, NAA, A 432/85 Control Symbol 1935/779 Part 2.

¹⁴⁰ “Child Sues for Injuries”, *SMH*, 8 June 1937, p 8, 9 June 1937 p 10 and 10 June 1937, p 6.

¹⁴¹ “Accident at Pyrmont”, *SMH*, 31 August 1937, p 6 and 1 September 1937, p 11.

¹⁴² “Railway Guard’s Death”, *SMH*, 25 September 1937, p 10.

¹⁴³ “Fall Down Steps Alleged”, *SMH*, 29 September 1937, p 9; “Fall on Railway Station”, *SMH*, 2 October 1937, pp 14, 18.

¹⁴⁴ “Excessive Damages Alleged”, *SMH*, 16 November 1937, p 6 and 17 November 1937, p 8; “Fall Down Steps”, *SMH*, 18 December 1937, p 10.

¹⁴⁵ “Accident on Railway Premises”, *SMH*, 7 April 1938, p 7 and 8 April 1938, p 8.

¹⁴⁶ “Excessive Damages Alleged”, *SMH*, 16 November 1937, p 6 and 17 November 1937, p 8; “Fall Down Steps”, *SMH*, 18 December 1937, p 10.

These cases were interspersed with a number of divorce petitions. Christian herself handled an uncontested divorce case in July¹⁴⁷ but after that there were nine divorce cases which were handled by Jack Sweeney on behalf of C Jollie Smith and Co.¹⁴⁸ In September Christian also instigated an action in the Bankruptcy Court on behalf of her client who had been awarded £407 damages and costs for breach of promise of marriage. The money had not been paid and she had had the estate of her former fiancé sequestrated. It was agreed that the outstanding amount would be paid at ten shillings per week.¹⁴⁹ The last case in 1937 involved a dispute between an elderly woman and her grand-daughter over the ownership of a savings bank deposit of £745 and bonds to the value of £1100. Christian represented the grand-daughter in the cause which was settled by an agreement.¹⁵⁰

In October, Jim Healy was elected to the position of Secretary of the Waterside Workers' Federation.¹⁵¹ Healy was a member of the Communist Party of Australia and after his election he modernised the Federation turning it into one of the most powerful unions in Australia.¹⁵² His election was to prove an important source of work for Christian's legal practice. One of her tasks during 1938 was the drafting of a new set of rules for the Federation.

Christian's legal practice in 1938 commenced with several uncontested divorce cases¹⁵³ and several appeals and claims for damages.¹⁵⁴ In March, Christian briefed Frank Dwyer and John Kerr¹⁵⁵ on behalf of the publishers of the *Workers' Weekly* and Clive Evatt and Jock McClemens on behalf of Hal Devanny in two libel cases. In the first case William Long sued for damages of £2,000 for an article which alleged that he had used his position as a member of the council of the Australian Engineering Union to exclude another man from membership of the Council on the basis of false evidence. The publisher and Devanny pleaded not guilty, fair comment, truth and public benefit. The jury found for the publisher and Devanny.¹⁵⁶ The

¹⁴⁷ "Parno v Parno", *SMH*, 29 July 1937, p 5.

¹⁴⁸ "Parry v Parry", *SMH*, 19 August 1937, p 7 and 26 August 1937, p 7; "Shirsoff v Shirsoff", *SMH*, 2 September 1937, p 7; "Cahill v Cahill", "Rodstrom v Rodstrom", "Ralston v Ralston" and "Leuthwaite v Leuthwaite", *SMH*, 2 October 1937, p 14; "Slevin v Slevin" and "Williams v Williams", *SMH*, 19 November 1937, p 5; "Jentsch v Jentsch", *SMH*, 16 December 1937, p 4.

¹⁴⁹ "Public Examination", *SMH*, 21 September 1937, p 6.

¹⁵⁰ "Settlement of Dispute", *SMH*, 30 December 1937, p 5.

¹⁵¹ "Will Bring New Life to the Waterside Worker's Federation", *Workers' Weekly*, 26 October 1937, p 3.

¹⁵² Ray Markey and Stuart Svensen, "James Healy", *ADB*, Vol 14, 422.

¹⁵³ "Merriman v Merriman" and "Halliday v Halliday", *SMH*, 20 January 1938; "Sharp v Sharp", *SMH*, 1 February 1938, p 7; "Tibbles v Tibbles", *SMH*, 18 March 1938, p 7.

¹⁵⁴ "Right of Suspension", *SMH*, 23 February 1938, p10 and 16 March, p 12; "Struck by taxi", *SMH*, 24 February 1938, p 6; "Quarter Sessions Appeals", *SMH*, 3 March 1938, p 7.

¹⁵⁵ Later Sir John Kerr, the Governor-General who dismissed Prime Minister Gough Whitlam. At this time Kerr was the youngest member of Clive Evatt's chambers. See Richard Hall, *The Real John Kerr: His Brilliant Career*, Angus and Robertson, 1978, p 31.

¹⁵⁶ "£2,000 Claim for Libel", *SMH*, 8 March 1938, pp 7 and 9.

following day, in another libel action by a member of the Australian Engineering Union against the publishers of the *Workers' Weekly* and Hal Devanny, counsel for the plaintiff sought an adjournment or alternatively leave to withdraw the action. Leave to withdraw was granted on condition that the defendants' costs would be paid if the action was not reinstated.¹⁵⁷ Long appealed against the jury's verdict in his claim and the appeal was heard by the Full Court of the Supreme Court in April but the Court dismissed the appeal with costs.¹⁵⁸

Also in April, Christian successfully handled a new claim against the Commissioner for Railways on behalf of a client whose husband, a fettler, had been killed by a train,¹⁵⁹ and briefed another NSW Labor Lawyer, Clarence Martin, on behalf of her client in an unsuccessful claim for damages.¹⁶⁰ Martin had been elected as the Labor member for Young in the October 1930 election won by Jack Lang but he lost his seat in the 1932 election after Lang's dismissal. He then studied law at the University of Sydney and was admitted to the bar on 20 November 1936. Re-elected for the seat of Waverley in a bye-election in April 1939, he was appointed Attorney-General in the McKell Labor Government in May 1941.¹⁶¹

Over the next few months Christian handled two cases involving a dispute over union rules. In June she acted for a member of the Australian Workers' Union who sought disallowance of a rule which decreed that a member who disclosed union business to a person not entitled to receive it would be expelled on the ground that it was tyrannical, oppressive and contrary to law. Christian briefed Jock McClemens to appear on behalf of her client in the Commonwealth Conciliation and Arbitration Court. The Court upheld the complaint and ordered that any member expelled under the rule should have the right to appeal to the executive council or convention.¹⁶² In September she acted for the Australian Railways Union and its secretary, Robert Maxwell Lloyd Ross, when one of its members sought to restrain the union from enforcing a fine for breaching a union rule preventing a member of the union from standing against an official union candidate. The union member argued that the fine was unreasonable because the official union candidate had not been properly pre-selected. In this case Christian briefed Frank Dwyer to appear in the NSW Industrial Commission on behalf of the union and

¹⁵⁷ "Libel Alleged", *SMH*, 9 March 1938, p 10.

¹⁵⁸ "Appeal Against Jury's Verdict", *SMH*, 13 April 1938, p 6; "An Appeal Dismissed", *SMH*, 10 May 1938, p 6; "Judgment for *Workers' Weekly*", *Workers' Weekly*, 27 May 1938, p 2.

¹⁵⁹ "Claim by Fettle's Widow", *SMH*, 5 April 1938, p 8 and 6 April 1938, p 10.

¹⁶⁰ "Cycle and Car Collide", *SMH*, 13 April 1938, p 6.

¹⁶¹ *NSW Law Almanac 1937*; Heather Radi, Peter Spearrit and Elizabeth Hinton, *Biographical Register of the NSW Parliament 1901-1970*, ANU Press, Canberra, 1979, p 193.

¹⁶² "Union's Rule", *SMH*, 3 June 1938, p 5; "Union Rule Disallowed", *SMH*, 8 June 1938, pp 10, 15.

Lloyd Ross. The Court upheld the member's complaint and restrained the union from proceeding with the fine.¹⁶³

Meanwhile, Christian and Jack Sweeney continued to share responsibility for handling divorce cases particularly when several cases were called on at once. Christian appeared in two uncontested divorce cases in May.¹⁶⁴ In August, Christian briefed counsel in a long drawn-out case on behalf of her client whose former husband sought a suspension of an order to pay her alimony. The Registrar granted the suspension but Christian's client appealed against the decision. The appeal hearing was begun in October but the matter was held over while the ex-husband's affairs were investigated. In November, the Court dismissed the appeal against the suspension.¹⁶⁵ Jack Sweeney also handled two uncontested divorce cases and an application for restitution of conjugal rights¹⁶⁶ and one contested divorce¹⁶⁷ on behalf of C Jollie Smith and Co in August and September.

On 10 October, Christian attended a meeting of the Spanish Relief Committee which had been convened to consider the purchase of a car for fund-raising purposes. Christian was present for the purpose of advising the committee on the purchase. She advised that ex-Senator Rae's son-in-law, who was experienced with cars, should be asked to find a suitable car and that, when the car was purchased, it should be secured to the committee by a deed of trust and a comprehensive insurance policy should be arranged.¹⁶⁸

Later in October, Christian briefed Eric Miller on behalf of her client in an uncontested case in the Workers' Compensation Commission.¹⁶⁹ The death of another railway fettler was the subject of a contested case before the Supreme Court in December. Christian briefed Clive Evatt and Clarence Martin on behalf of her client. Christian's client was awarded £1,757.¹⁷⁰ In between these two cases Christian briefed Eric Miller on behalf of her client, John O'Carroll, who sued for libel over an article in *The Link* newspaper which circulated in Balmain. O'Carroll had been a candidate in the New South Wales State elections in March 1938 and the

¹⁶³ "Fined by Union", *SMH*, 6 September 1938, p 5 and 21 September, p 11.

¹⁶⁴ "Towns v Towns", and "Costello v Costello", *SMH*, 20 May 1938, p 6.

¹⁶⁵ "Chapman v Chapman", *SMH*, 19 August 1938, p 6; "Large Sums Kept in Box", *SMH*, 18 August 1938, p 13; "The Chapman Case", *SMH*, 19 October 1938, p 10 and 9 November 1938, p 13.

¹⁶⁶ "Reardon v Reardon", *SMH*, 13 August 1938, p 6; "Lapes v Lapes", *SMH*, 25 August 1938, p 6; "Mummery v Mummery", *SMH*, 24 September 1938, p 5.

¹⁶⁷ "Priol v Priol", *SMH*, 16 August 1938, p 6 and 27 August 1938, p 4.

¹⁶⁸ Minutes of the Spanish Relief Committee, *P T Thorne Papers*, NBAC, ANU, P15/3/2.

¹⁶⁹ "Railway Workers' Death", *SMH*, 22 October 1938, p5.

¹⁷⁰ "Loss of a Husband", *SMH*, 7 December 1938, p 6.

article, published two days before the election, alleged that he had withdrawn his nomination. O'Carroll claimed £2,000 in damages but was awarded only £200.¹⁷¹

On 1 December, Christian attended a meeting in Clarence Martin's chambers at which Brian Fitzpatrick, General Secretary of the Australian Council for Civil Liberties (ACCL), read a short report on the work of the Council. The ACCL had been founded in Melbourne in December 1935 and Vance and Nettie Palmer had accepted an invitation to vice-presidents of the Council in March 1936.¹⁷² In October 1938, Fitzpatrick reported that 'Miss C Jollie Smith...is another member who has already done valuable work for us.'¹⁷³ Just when Christian became a member is unclear but the valuable work she had done was preparing the legal section of the New South Wales Edition of the ACCL pamphlet *The Police and the People* which was published in 1938.¹⁷⁴ Among others present at the meeting in Martin's office were AB Piddington, Richard Windeyer, John Kerr, Jack Sweeney and Harry Thorne. Those present resolved to constitute themselves as the NSW Advisory Committee of the ACCL.¹⁷⁵ Martin was appointed the ACCL's NSW State Secretary. In an undated note, Brian Fitzpatrick recorded that he had considered inviting Christian to represent the ACCL in Sydney 'but having discussed the matter with various well-informed people, I concluded that she was so well known as an active supporter of left organisations that she might not be the best person to represent us.'¹⁷⁶ However, Martin resigned from the position in May after he was re-elected to the NSW Parliament and Jack Sweeney was appointed to replace him as NSW State Secretary in June 1939.¹⁷⁷

The year 1938 ended as it began with a series of divorce cases.¹⁷⁸ The new rules for the WWF were also registered on 17 December.¹⁷⁹ Writing to Nettie Palmer in March 1940 she described the process of working with Healy to develop them.

I have just finished a complete set of WW Fed rules.... Healy has been very good and hasn't nagged at me – the Annual Conference is almost due where they are finally approved or disapproved. Healy and I cope

¹⁷¹ "Libel Alleged", *SMH*, 3 November 1938, p 13 and 4 November 1938, p 16.

¹⁷² *Brian Fitzpatrick Papers*, NLA MS 4965/1/42

¹⁷³ *Brian Fitzpatrick Papers*, NLA MS 4965/1/1057

¹⁷⁴ *Brian Fitzpatrick Papers*, NLA MS 4965/1/3439

¹⁷⁵ *Brian Fitzpatrick Papers*, NLA MS 4965/1/1061.

¹⁷⁶ *Brian Fitzpatrick Papers*, NLA MS 4965/1/3439.

¹⁷⁷ *Brian Fitzpatrick Papers*, NLA MS 4965/1/3468.

¹⁷⁸ "Waite v Waite", *SMH*, 9 December 1938, p 9, 10 December 1938, p 6 and 22 December 1938, p 5; "Hulton v Hulton", *SMH*, 25 December 1938, p 6; "Bisson v Bisson", *Cryer v Cryer* and "Walter v Walter", *SMH*, 22 December 1938, p 5.

¹⁷⁹ "Expulsion from Union", *SMH*, 20 August 1940, p 3.

between plane trips and usually when eating sandwiches and gulping
scalding tea...¹⁸⁰

During the process she had developed a close working relationship with Healy. 'I enjoy working with him enormously,' she told Nettie.

Towards the end of January 1939, Christian was again recorded as being present at a meeting of the Spanish Relief Committee but did not make any recorded contribution. Her attendance may perhaps be explained by the fact that the courts were in recess in January. However, she apologised for her non-attendance at meetings held on 8 February and 1 March. She is not recorded as being present or sending her apologies after this date. In any case, the life of the Committee was almost over. The Spanish Civil War ended in April 1939 when General Francisco Franco occupied Madrid and established control over the government.

Meanwhile, in February, Christian briefed Clive Evatt and Jock McClemens on behalf of her client who claimed damages for the loss of her husband who died after being hit by an iron ball while working at the scrap breaking plant at Clyde. By consent of the parties the woman was awarded £1,500.¹⁸¹ This was followed by another case involving the death of a railway man before the Workers' Compensation Commission. Christian briefed Jock McClemens on behalf of her client who was awarded £175.¹⁸² In early March Christian briefed Frank Dwyer on behalf of her client, John Brett, who had purchased the Australian Hotel at the corner of Kent and Market Streets. Brett sued for damages for breach of warranty and for misrepresentation of the weekly takings of the hotel. The jury found in favour of Brett and awarded him £500. The defendant in the case was granted a stay of proceedings pending an appeal.¹⁸³

Towards the end of March, C Jollie Smith and Co was appointed as the official solicitor for the Waterside Workers Federation.¹⁸⁴ The appointment involved the payment of an annual retainer which must have been a welcome addition to the income of the practice. C Jollie Smith and Co was appointed in place of the Melbourne firm of Blackburn and Tredinnick after the National Office of the WWF transferred from Melbourne to Sydney. It is difficult to ascertain the exact amount of the retainer but in February 1940, Healy wrote to Christian enclosing a cheque for

¹⁸⁰ CJS to Nettie Palmer, March 1940, *Palmer Papers*, NLA MS 1174/1/5740.

¹⁸¹ "Compensation to Relatives", *SMH*, 21 February 1939, p 9.

¹⁸² "Rimes v The Commissioner for Railways", *Workers' Compensation Reports*, Vol 13, 1939, pp 38-39.

¹⁸³ "Sale of Hotel", *SMH*, 1 March 1939, p 10.

¹⁸⁴ CJS to Jim Healy, 29 March 1939, *Waterside Workers Federation Federal Council Papers*, NBAC, ANU, T62/19.

thirty guineas 'in payment of charges re SS Makara dispute and yearly retainer.'¹⁸⁵ In return for the retainer, C Jollie Smith and Co provided advice on the interpretation of awards and acted for the WWF in litigation.

At the end of March there were several uncontested divorce cases, handled by Jack Sweeney,¹⁸⁶ and then there were no reported cases until the beginning of May when Jack Sweeney handled two more uncontested divorce cases.¹⁸⁷ At the end of May, Christian briefed Frank Dwyer and John Kerr in another case on behalf of Hal Devanny and the *Workers Weekly*. Devanny, the editor of *Workers' Weekly*, had been sued for libel by Percy Stephensen, the editor of *The Publicist*. Percy Stephensen was a Queenslander who had joined the CPA in 1921. He won a Rhodes scholarship and while at Oxford he joined the Oxford branch of the Communist Party of Great Britain. After working in publishing in London he returned to Australia in 1932 establishing first the Endeavour Press and then PR Stephensen and Co which published books by such writers as Miles Franklin, Henry Handel Richardson and Eleanor Dark. In the late 1930s he moved politically from the left to the far right. In July 1936 he established the monthly journal *Publicist* which was strongly anti-British, anti-Semitic and anti-democratic.¹⁸⁸ While his libel case was pending an article appeared in *The Publicist* under Stephensen's by-line which Devanny alleged was contempt of court. The article described the claim against Devanny and the *Workers' Weekly* and outlined the defence that Stephensen would make when the case came to court. The Court ruled that Stephensen had acted in contempt of court but, taking account of his apology, awarded only costs in favour of Devanny.¹⁸⁹ After this case there were three uncontested divorce cases, handled by Jack Sweeney, at the end of June.¹⁹⁰

The next case which Christian handled, at the end of August, was another compensation case involving the death of a railway worker. Christian briefed Clive Evatt and Frank Dwyer on behalf the widow who was awarded £2,800. The Commissioner for Railways sought, and was granted, a stay of proceedings pending an appeal.¹⁹¹ The Commissioner's appeal was heard by the Full Court of the Supreme Court in November. Of several grounds of appeal the only one which succeeded was that the amount awarded by the jury exceeded the maximum allowable

¹⁸⁵ Jim Healy to CJS, 8 February 1940, Waterside Workers Federation Federal Council Papers, *op cit*.

¹⁸⁶ "Mummery v Mummery", *SMH*, 29 March 1939, p 10; "Smith v Smith" and "Arnold v Arnold", *SMH*, 31 March 1939, p 3.

¹⁸⁷ "Morrison v Morrison" and "Barker v Barker", *SMH*, 2 May 1939, p .5

¹⁸⁸ Craig Munro, "Percy Reginald Stephensen", *ADB*, Vol 12, pp 70-71.

¹⁸⁹ "A Contempt Motion", *SMH*, 27 May 1939, p 9.

¹⁹⁰ "Lincoln v Lincoln", "Morley v Morley", and "Cryer v Cryer", *SMH*, 29 June 1939, p 4.

¹⁹¹ "Railway Worker's Death", "Railway Worker's Death", *SMH*, 29 August 1939, p 6.

under the Government Railways Act. Christian's client's award was reduced to £2,000.¹⁹² This decision was appealed in the High Court which heard argument in December. When the decision was handed down until April 1940, Christian's client was successful and the full amount of her compensation award was restored.¹⁹³

New legal cases were scarce during the remainder of 1939. An article published in the *Sydney Morning Herald* in December noted that there had been 'a diminution of litigation' since the outbreak of war on 3 September.¹⁹⁴ In the middle of September, there was a series of uncontested divorce cases, again handled by Jack Sweeney.¹⁹⁵ This was followed by another successful compensation case in which Christian's client sought damages for injuries received during his employment.¹⁹⁶ Jack Sweeney handled two more divorce cases in early December¹⁹⁷ and on 19 December Christian briefed John Brennan to appear in the High Court on behalf of her client, a waterside worker, who had been convicted and fined for taking a 'smoko' a breach of the award. The High Court dismissed the appeal.¹⁹⁸

Christian was now well established as a divorce and workers' compensation lawyer and appeared to be in good health. However, after the outbreak of war in 1939 litigation declined and legal staff were hard to get. This meant long working hours for Christian. During the 1940s her health began to deteriorate and would be a problem for the rest of her life.

¹⁹² "Tangled Legislation", *SMH*, 2 November 1939, p 5.

¹⁹³ "Compensation Claim", *SMH*, 15 December 1939, p 3 and 19 December, p 6.

¹⁹⁴ "A Year's Cases", *SMH*, 22 December 1939, p 5.

¹⁹⁵ "Lowe v Lowe", "Ford v Ford", "Simpson v Simpson", "Bisson v Bisson", *SMH*, 12 September 1939, p 5; "Berry v Berry", *SMH*, 14 September 1939, p 4.

¹⁹⁶ "Factory Accident", *SMH*, 30 November 1939, p 4.

¹⁹⁷ "Brown v Brown" and "Mason v Mason", *SMH*, 7 December 1939, p 4; "Widow's Appeal Upheld", *SMH*, 3 April 1940, p 6.

¹⁹⁸ "Waterside Workers' Alleged Breach of Award", *SMH*, 20 December 1939, p 3.