
Constitutional reform

by Barry Hunt

Australia has changed a lot since the Constitution was drafted a hundred years ago. In this article prominent Australians say what changes should be made to the Constitution if it is to continue as an appropriate foundation for the government of Australia.

The Australian Constitution was discussed at the Constitutional Centenary Conference in Sydney in April this year. *Reform* invited participants to identify areas of constitutional reform of particular interest to them. The subject matter of their replies overlapped so edited versions appear.

Dr HC Coombs

Visiting fellow, Centre for Resource and Environment Studies, Australian National University

Indigenous people. The most important task involved in the review of the Constitution is to ensure that it makes possible the progressive incorporation of Aboriginal people (including Torres Strait Islanders) into a diverse Australian society with recognition of their traditional rights, their distinctive culture and their potential to enrich that society.

The Constitution cannot, I believe, itself properly seek to achieve that incorporation but should aim to recognise that indigenous people possess rights

which should be conditions of it and to establish institutions to work for its achievement.

I would suggest that the Constitution should

- recognise that indigenous people have rights by virtue of long occupation of the continent before 1788
- acknowledge that the Crown, in the Commonwealth Parliament and governments has a responsibility as Trustee to protect and make effective those rights
- provide that the nature and extent of those rights at any time is a matter for determination by appropriate legal authority
- provide for the establishment, in collaboration with institutions of Aboriginal society, of a Court as the primary instrument for the exercise of that trusteeship and in particular to make such determinations
- to provide the Court with power to require and organise processes of research, negotiation, conciliation and arbitration, if in its opinion such action is necessary to its determinations or to any of its actions as an instrument of the Crown's trusteeship

- to provide that decisions of the Court shall be binding on the Crown in the Commonwealth and the States and territories.

Federalism etc. The health of our system would I believe be improved if it were replaced by a federal system of regional governments whose relationships with the federal government were more similar to those of Territories where a review of the number and powers of the regional governments and their Territories were undertaken periodically. The establishment of a territory could occur as historical change made it desirable and its constitutional powers and financial arrangements with the Federal government determined by negotiation. This has worked well for some 'external' territories and the Commonwealth (see *Islands in the Sun*) and could provide a means to accommodate the likely demands of indigenous people (Torres Strait, Arnhem Land and the Pitjantjatjara Lands may be possible instances) without national disruption and serve both to promote and accommodate regional difference and cultural diversity.

Responsible government. The basic principle of responsible government I presume, is that Ministers (chosen from Parliament) are responsible to Parliament for their actions, and those of departments or other agencies responsible to or subject to their direction. This principle is modified in contemporary practice by the complications of collective cabinet responsibility.

It is substantially modified also by the practices of statutory bodies and bodies set up by ministerial or Cabinet decision to which are entrusted the management of a great variety of agencies with varied functions. The most important of these is the whole judicial system which in theory operates independently of Cabinet Ministers and their servants and (justifiably) protected from the exercise of power by them.

Some statutory corporations like the Reserve Bank perform important functions in areas of complex and political sensitive policies. A significant degree of autonomy is established for the Reserve Bank's management in its decision making, but there is provision for the assertion of ultimate cabinet authority by certain procedures. The position of the industrial arbitration system also departs from the apparent simplicity of 'responsible government'.

Thus there is a wide diversity of statutory and non statutory agencies exercising powers over which the Minister's authority (and even more the authority of Parliament) is minimal despite the common legislative provision that these agencies must accept and act in accordance with a direction of the

Minister and provide a periodical report to him or her for Parliament. This practice sometimes results in close involvement in the affairs of the agency by the Minister on an almost day by day and detailed basis often with negligible awareness of Cabinet colleagues and even less of Parliament. In some instances this amounts to almost complete au-

means by which their accountability is to be established made clear in the relevant legislation. Parliament will need also to consider what instruments may be necessary to make that accountability effective.

There is no doubt that over the last century the authority of Parliament has been eroded by the doctrine of collective cabinet responsibility, by the number and diversity of powerful statutory corporations, regulatory agencies, publicly owned commercial enterprises etc which form part of the present machinery of government and of course by the influence of major domestic and transnational private commercial corporations on the decisions of governments. There is a need to ensure that there is

harmony between what we believe is in the Constitution and the practice of governments, their various agencies, their important clients and the servants they employ.

The Constitution should guarantee basic rights. In principle I favour action of this kind. However it is not without problems. The guarantee of certain rights tends to create a presumption that rights not listed do not exist. Furthermore experience of legislation establishing such rights frequently

- concentrates on exceptions — circumstances in which those rights are or can be abrogated (eg where security matters are involved)
- establishes complicated procedures and requirements from persons claiming those rights in

Australian federalism is very ill indeed — the Constitution has been bent almost double by the High Court (and the two levels of government) in order to make it work, and the whole federal system is breaking down. The classical federal system might have been sensible and pragmatic in 1901 but it is a political liability now.

Richard Cullen
Current Affairs Bulletin

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tonomy — especially in some marketing authorities and commercial enterprises.

I think this pattern of 'responsible' government which has grown like Topsy needs tidying up. I suggest that the fundamental constitutional requirement that all persons or organisations acting or exercising authority in the name of the Crown should be effectively responsible and accountable to Parliament.

The delegation of authority by Parliament to a Minister backed by a department of employed officials may be adequate for most purposes but there are circumstances in which other structures may be preferable. If the sovereignty of Parliament is to be maintained and the responsibility of such structures to it assured, their functions must be clearly delimited and the

particular circumstances which make difficult effective claims by the poor and the less informed, articulate, or literate

- provides for appeal or opposition procedures open to interests which benefit from the loss of rights by individuals in particular instances or groups in which the advantage lies heavily with those who can hire expensive legal and other support.

In general terms it seems that the more general the statement of rights can be and the more the rights can be seen as justified as a continuance of long established and/or traditional practice of their exercise, the more effective such guarantees are likely to be.

Professor Kenneth Wiltshire

JD Story Professor of Public Administration at the University of Queensland

Australia's founding fathers designed a constitutional and political system for a time when governments were small, distances were great, communication systems undeveloped (they talked mostly on the telegraph in morse code), people and goods were not very mobile, and Australia was isolated. It is only natural that the system they designed needs changing in an era of fast transport and communications, instant mobility, high expectations of governments following two world wars, a depression and numerous recession, and — the most important factor of all — the internationalisation of the Australian economy.

The founding fathers also designed a system of government where power would be highly decentralised. They saw the States as powerful and the Senate as a

States' house. Events over the past 100 years have seen a progressive trend towards greater centralisation and accrual of power to the national government.

The challenge therefore for the next decade is to contemplate changes to our system of government which will make Australia strong nationally to allow us to remain competitive internationally but at the same time to preserve and enhance our democratic checks and balances of power throughout the nation to offer incentive, protect rights of individuals, and encourage participation and responsibility.

The first prerequisite is unquestionably education for Citizenship. Australian education systems and programs for migrants have performed this role very poorly in the past. We cannot really begin the debate until the level of awareness is much higher in the community about our history, our system of government, and the options for reform available to us.

Secondly, Australia needs a few years of profound discussion and debate. It would be grand if every Community group could devote part of the 1990's to a deep and intense discussion of their Vision of Australia for the next century and the positive outcomes they would like to achieve.

A Bill of Rights might go a long way to tapping the energies of our multicultural society, afford recognition to minority groups, recognise the important cultural identity and contribution of our aboriginal people, and provide a secure basis for individuals to participate in the democratic process. A republic is not an essential element but it would more easily capture national sentiment, engender patriotism, afford important symbolism and force us to consider our place in the sun. We virtually have a

republic now — the simplest and least disruptive change would be just to elect the Governor-General.

Some want to abolish one level of government for the economy it might bring and the speed of decision making. This would be a major disruption. Other federations function more effectively than ours and we can surely retain a federal system and make it work more sensibly. The series of Special Premiers Conferences is showing the way on this and we can learn a great deal from Germany, USA and Canada and the new federated Europe; especially Germany itself, a model of federal efficiency. The most urgent reform is to restore more taxing powers to State and local governments. We will never encourage a feeling of true accountability and responsibility to them until they raise more of the revenue that they spend. Deregulating the States will also see market pressures brought to bear upon them to the public good. This reform is fundamental to so many others.

Citizens initiated referendums on the Swiss Model would surely wake us from our lethargy and provide a source of stimulus to our elected representatives. Changes to the High Court to allow easier access, cheaper and faster litigation, less fundamentalism in interpretations, advisory opinions etc would also encourage public confidence and participation, not to mention pressures on governments to perform. These may be issues for the medium term and goals for 2001 but a more urgent imperative is four or even five year parliaments to begin to foster the kind of statesmanship which characterised the 1890's and which now is within our reach in this decade — a true historic window of opportunity for us.

Dr Peta Colebatch

Consultant; former Deputy Secretary, Department of Premier and Cabinet, Tasmania

Our future society should give priority to human rights and dignity, and our Constitution should reflect this. I believe that Aboriginal rights need to be addressed in the Constitution, so that we can recognise the Aboriginal and Torres Strait Island peoples as the indigenous inhabitants of Australia, and move forward from there with pride.

Many people are concerned about:

- increasing social changes in society and the apparent view of government that a high level of unemployment is something we should accept;
- the level of violence in society, particularly that against women; and
- apparent apathy by the public at large about how public affairs are conducted and the manner in which public figures conduct themselves (witness the response around Australia to progressive findings of a range of Royal Commissions).

To help support changes in these areas, a Bill of Rights should become part of our Constitution to outline the ways in which people should be treated in our future society, to set standards for our conduct of business, and as a basis for appeal should major infringements of rights take place by governments of the future.

Matters such as the control of the armed forces are critical at times of crisis, just as are questions of the reserve powers of the Governor-General. In the light of past events, we should debate which actions embodying elements of nationhood — such as the commitment of troops overseas —

require Parliamentary approval, and in what situations the Governor-General or future Presidential equivalent can 'act'.

Finally, how can we best regulate powers between the Commonwealth and the States so that matters concerning the environment and safety standards can be adopted Australia-wide, and will this require specific Constitutional provision.

Professor Adrienne Clarke

School of Botany, The University of Melbourne

The Constitution which is written for the year 2000 should be structured to serve Australia perhaps for the next 100 years. It should therefore facilitate the functioning of the type of society which we would like to see in the twenty-first century. This then leads us to the question — what sort of society do we want? I would therefore focus on the debate on this question and once we reach some level of agreement on our goals, then turn our attention to the drafting process.

I suggest the following as a starting point for debate: 'We would all like to continue to enjoy a high standard of living in a stable society with a fair distribution of wealth in our truly lucky country. We also need to see the economy growing in such a way that our environment is protected, and that we maintain a supply of clean air and water. We should hand on to future generations a land with soils which will continue to sustain growth. We also need to hand on our unique genetic resources, a treasure trove for the future which, once lost, is irreplaceable. We should project an image of Australia to the world as a civilised, educated and cultured community, able to contri-

bute to debate and management of global issues.' (from Clarke [1989] 'Current issues for Australia's research system.' In: Resources for Science and Technology and their Utilisation. Papers presented at the first meeting of the Prime Minister's Science Council, 6 October 1989).

So, we may perceive the need for guarantees of basic rights and judicial independence as critical issues for a fair society. However, we must remember that guarantees of this type enshrined in the Constitution are not necessarily meaningful in the absence of strong institutions. In the end this reduces to a supply of dedicated people with unquestioned standards of honesty and integrity, who are willing to serve Australian society and ensure that constitutional rights are indeed guaranteed.

For the preservation of the quality of our air, our water and our environment, we need a well-informed effective government and a high quality, supporting bureaucracy. Because these issues do not stop at State borders, we need to consider the issues of federalism.

For ensuring a reasonable standard of living we again need responsible well-informed government and a commitment from the Government and the bureaucracy to ensure that the regulatory and bureaucratic procedures are used to enhance our opportunities for international trade and not to hinder them. For these reasons, the quality of the people involved again comes to the fore. We need a bureaucracy which is well-informed, has a strong analytical capacity and is able to gather and integrate expert advice on policy to Government.

The bureaucracy requires the capacity to see Australia, our problems and our hopes for the future in the context of what is happening in the rest of the world. One of

the frequent complaints is that the very isolation of Canberra from the major centres of commerce and primary production in Australia, let alone the rest of the world, and the issue of third and fourth generation career bureaucrats in Canberra makes it difficult for the bureaucracy to perceive the operational realities in Australia.

In this context, accountability for taxing and spending is extremely important. The people should be informed as to how the money is spent to promote and achieve the National goals and they should also have some measure of how effective the expenditure has been.

The issue of the Head-of-State will be an on-going debate, but in my view it is inevitable that we will move further from the United Kingdom economically, and hence move further from the Monarchy to becoming a Republic.

Phillip Toyne

Executive Director Australian Conservation Foundation

The Commonwealth needs a specific head of power to protect the Australian environment in the national interest. A new section should be inserted in the Constitution to provide for the Parliament to have power to make laws with respect to:

- the discharge of substances onto land, air or water affecting more than one State or Territory
- the prevention of land, air or water degradation affecting more than one State or Territory
- the use of nuclear fuels, nuclear energy and ionising radiation;

'One of the rarely appreciated charms of our Constitution is the capacity of its text, bland enough to the eye, to provide both plot and ramifying sub-plots for countless human dramas; providing as well a supply of conundrums with as many solutions as there are judges on hand to solve them.

To many lawyers, and political scientists too, the latter sometimes faring rather better with it than do the lawyers, the Constitution must, I think, resemble if not a jungle at least densest rainforest. Its occasional sunlit clearings can be deceptive in their innocence and may, equally with its dark hidden places, yield strange encounters for the intrepid explorer.

Sir Ninian Stephen, former Governor-General of Australia in his foreword to *'Encounters with the Australian Constitution'* by Michael Coper.

- the protection of areas of Australia of national and international significance;
- the protection of a species of flora or fauna from extinction
- the regulation of novel lifeforms and other genetically or biologically manipulated releases.

John Ralph

Managing Director and Chief Executive CRA Limited

There can be little doubt that the nation has some serious problems; in relative terms our standard of living is in long term decline and we are amassing an immense level

of external debt. In doing so, we have already significantly mortgaged the future of not only the current, but also succeeding generations.

We have to come to terms with our location in Asia and compete with nations whose standards of living is fast overtaking our own.

To carry us into the 21st Century, we need a vision for our nation. At the heart of that vision, I believe, is a nation able to achieve a strengthened economic position capable of providing its citizens with a standard of living and quality of life to which they aspire. We need a common understanding of what is required to achieve the ends we would all wish to seek. Others cannot do this for us.

The Constitutional Review Process can play a part in moving us toward that vision with a structure and process which will work effectively and efficiently for the next 100 years. The nation faces different challenges from 100 years ago, but they are real challenges and need to be addressed constructively and co-operatively.

While there is urgency, the issues need detailed study, options need to be developed and people need time to deliberate and consider. They need to be convinced of the need for change and comfortable with sort of changes proposed.

Pushing the community towards positions before there has been sufficient time to consider the

issues thoroughly and in a non-threatening way invites polarisation of views and less than optimum outcomes.

The Hon Mr Justice AM Gleeson

Chief Justice of NSW

The Constitutional Conference did not limit its consideration of constitutional reform to the matter of possible amendments to the Australian Constitution. The issues debated also included the operation of State and Territory Constitutions, and a number of topics that fall within the area of constitutional law and convention, but which do not necessarily involve possible Constitutional amendments.

The important question of the arrangements between Commonwealth and State governments concerning the raising and expenditure of funds is a good example of the way in which constitutional issues extend beyond the matter of altering the text of the Australian Constitution. The existing arrangements are not enshrined in the Constitution and they owe their existence as much to political history as to legal constraint. The need for reform, however, seems clear. The Commonwealth collects approximately eighty per cent of taxation revenue but its own purposes account for only about half of total public sector expenditure. A learned author (C Walsh *State Taxation and Vertical Fiscal Imbalance*, Centre for Research on Federal Financial Relations, ANU, 1990) has observed that 'Australia's federal fiscal arrangements are the most vertically unbalanced among the major advanced federations with which we are most appropriately compared'. The need for a closer relationship between the power to

raise revenue and the responsibility for spending it is an aspect of fiscal reform that is widely recognised as demanding attention. The potential political consequences of change are such that it may be difficult to achieve consensus. However, recognition and discussion of the problem will create pressures for at least some measure of reform.

Many people regard judicial independence as such an obviously good thing that they do not trouble to work out fully what it involves, and fail to observe circumstances in which it may be threatened. It is taken for granted. It is important that the public should be aware that judicial independence is not merely a state of mind or spirit which leads judges to decide cases on their merits, and regardless of the wishes of Government, although of course it includes that. It has structural and institutional aspects, reflecting the principle of separation of powers. The Executive Government is a major litigant in the courts. This is most evident in criminal trials, but even in civil cases a great deal of the work of the courts involves resolving disputes between the citizen and the Government. It is obvious, therefore, that the judicial area of government should be 'accountable'. Accountable to whom? And for what? Accountable to the Executive Government, whose agencies are constantly in litigation before them, and of whom they are supposed to be independent? Accountable for their decisions? A great constitutional settlement in England established, at one and the same time, the line of succession to the Throne, the supremacy of Parliament, and the independence of the Judiciary. The latter was secured partly by making judges removable from office only by Parliament. The observance of an appropriate balance in the relation-

ship between Parliament, the Executive and the Judiciary, is a difficult but extremely important matter. The public should be better informed as to the significance of that balance. It is impossible to recognise a threat to a principle if the principle itself is not understood.

The most urgent need is for constitutional awareness.

Getano Lui (Jnr)

Chairman, Island Co-ordinating Council, Thursday Island

The status of our Torres Strait Island region and people within Australia, and the historical rights and greater self-government of our people within the region, must be clarified. A two-part process may be best. In the first part, regional government, marine conservation, economic development structures and a land and sea claims settlement would be worked out by the Island Co-ordinating Council (ICC) and ATSIC regional council on the one hand with the Commonwealth and Queensland governments on the other. Other Torres Strait residents could be involved through the Torres Shire or through a special ICC/Shire body. The status of Australia's overseas island territories, with revisions as proposed in the federal Parliament's 1991 report. *Islands in the Sun*, may be helpful here, as may also be the excellent recent report of the Queensland parliament's Public Accounts Committee on Torres Strait Islander and Aboriginal councils.

The package of political, environmental and economic reforms negotiated in the first part could then lead to recognition of that outcome in a revised Australian Constitution. Although many Australian political and constitutional thinkers have tended to be

very cautious, the importance of Australia sending a clear message to the world on race relations — a point made repeatedly in the 1991 constitutional conference in Sydney — and the progress of other 'first world' countries recently in coming to terms with their first inhabitants, require purposeful and visible Australian action for both national and international publics. We Islanders, meanwhile, pledge ourselves to the achievement of practical, positive outcomes and to resolution of long-standing problems in co-operation with our fellow Australians through the constitutional review process.

The protection of human rights and the environment are two of the crucial issues in the world today. Australia is well poised to give a lead, both subjects having been the subject of much study and public discussion in recent years. Constitutions are important cultural statements as well as fundamental documents of political and legal organisation. A clear constitutional protection for the unique eco-systems of the Torres Strait and for the survival and encouragement of the Islander society long resident there, would be a strong statement by a renewed Australia for the year 2001.

Dr Campbell Sharman

Department of Politics, The University of Western Australia

It seems to me that a fundamental axiom of justice is that one should not be the judge of one's own case. Yet in constitutional issues before the High Court involving disagreements over the scope of Commonwealth jurisdiction, it is Commonwealth appointed judges who must arbitrate. The common response to any suggestion that

the High Court is partial to the Commonwealth is one of horror: judges are independent and anyway, the history of constitutional interpretation is far from one which has consistently favoured the Commonwealth. Nonetheless it would be a brave person who argued that the scope of Commonwealth influence has not been extended by the Court, a view which has had strong, if not passionate, backing from State governments who have often felt to have been the major loser from the Court's decisions. The solution is to break the monopoly of the Commonwealth government's ability to shape the Court as it sees fit. This could be done by amending the Constitution to require that appointments to the High Court are made alternately by the commonwealth government and by a committee of all State Attorneys-General. The High Court would then be, and be seen to be, a genuinely federal constitutional court with a broader constitutional legitimacy than it now has.

Peter Jull

**North Australia Research Unit,
The Australian National University**

The most important addition to a renewed constitutional system is recognition of rights in Australia for indigenous Torres Strait Islanders and Aboriginal peoples. The OECD club of 'first world' countries is moving ahead quickly in the recognition of minority (including indigenous minority) rights, while also increasing multilateral monitoring of national policies and their social outcomes. Australia may be left behind.

OECD countries have found that *only* indigenous autonomy and self-government within nation-states effectively address indigen-

ous social problems and pent-up grievances, and that *only* strong leadership by national governments creates the momentum for change.

The Hon Justice Murray Wilcox Federal Court of Australia

There is a strong case for constitutional recognition of the special place of Aborigines and Torres Strait Islanders. There can never be true national unity until non-Aboriginal Australians acknowledge the dispossession effected by European colonisation. A constitutional statement may have only symbolic value, but symbols are often important.

There was a surprising degree of support at the Constitutional Conference for the notion of entrenching into the Australian Constitution a list of selected civil and political rights. However substantial questions arise in relation to a Charter of Rights; not least its effect upon the role of, and community perceptions about, the judiciary. But, judging by the Constitutional Conference reaction, any move to adopt a Charter may have substantial community support.

John Doyle

Solicitor-General for South Australia

I consider a process of community education, leading to a wider understanding of our Constitution, as being of the highest importance. Another matter which I think is central is the reaching of some agreement on our broad objectives.

First, grappling with the problem of fiscal imbalance. I consider this to be important for the health of our federal system. Secondly,

deciding what powers should be given to the Commonwealth Government to enable it to manage the economy satisfactorily. In saying this I do not assume that it will always hereafter be the view that the Government should manage the economy. But at the moment, and presumably in the reasonably near future, that is the view. It is therefore desirable to reach some agreement on what powers the Commonwealth Government should have to that end.

Another issue which I think is important is that of the protection of the rights of the individual. Somehow or other we need to secure reasonable guarantees of rights without giving rise to excessive legal intervention in the business of government and in everyday life.

I also think that we need to address those heads of power which are relevant to the achievement of greater efficiency in our society. The areas of transport and packaging of goods are typical examples.

Anna Booth

Federal Secretary,
Clothing and Allied
Trades Union of
Australia

As the Australian economy becomes internationalised our sense of nationalism and our pride in ourselves is more and more important.

Australia's complete independence from the United Kingdom and the primacy of the National Government are for me the two critical constitutional reforms issues of the decade.

Whilst abolition of the States is at the extremity of the debate, at the very least we must see the reversal of the constitutional arrangements for States to exercise all residual powers. I would like to see federalism based on the States exercising certain specific powers and the Commonwealth exercising others and all residual powers.

Michael Coper

Consultant, Sly and Weigall

Our constitutional arrangements affect the efficiency and quality of the delivery of government services, the manner and level of protection of our basic rights and freedoms, and the quality and

Current pressures are highlighting, more clearly than ever before, the shortcomings in the nation's fundamental political structure. The remarkable thing is that this has largely gone unnoticed. That is, few have made the connection between the country's flawed political structure and the contribution that it is making to Australia's continuing, indeed growing, politico-economic neurosis.

Richard Cullen
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integrity of our system of democratic, representative government.

It is easy enough to point to aspects of the constitutional system which cry out for reform but none of this is in the end productive unless we develop a better mechanism for achieving change. If we are to learn from the experience of the 1988 referendums, we must pay much closer attention to

the process of constitutional change. There are many areas, and areas of considerable significance, on which substantial agreement would be possible if it were not for short-term political expediency. In achieving this consensus, education at the secondary school level is of critical importance.

Sir Ken Keith

President, New Zealand Law Commission

Four New Zealanders participated in the 1991 Australian Constitutional Centenary Conference. Why should they even be there?

The principal reason for the participation is the recognition on both sides of the Tasman of the extremely close links between the two countries — in personal terms, history, geography, trade, investment and culture. New Zealand cannot fail to be vitally interested in the way Australia organises and operates its government.

A second reason is the recognition, emphasised throughout the conference, of the fact that the Australian Constitu-

tion has to be seen in its regional and international context.

And, third, there were further instances of the relevance of New Zealand experience to Australian challenges — such as the rights of Aboriginal and Torres Strait Islander peoples and the fledgling New Zealand Bill of Rights.

Graham Nicholson

Legal Adviser, Northern Territory
Parliamentary Committee on
Constitutional Development

The task of constitutional reform in Australia must be undertaken having regard both to the constitutional legacy that we as Australians have inherited, and also to the contemporary situation in which we now find ourselves, within and outside Australia.

There are a number of pronounced trends now apparent in the World which must impact upon this task.

One is the developing trend towards the globalisation of issues and the creation or enlargement of links across national boundaries.

Another is the growing pressures for devolution of degrees of authority to sub-national levels, giving rise to a need for more efficient and more co-operative systems of inter-governmental relations.

A third feature that should be considered, and which is allied to the post-war developments in human rights, is the desirability of having a constitutional framework upon which to construct and maintain a fair, tolerant and harmonious society, based on the rule of law and equality before the law, and applicable to all people regardless of race, class, religion or belief.

Terry Purcell

Director, Law Foundation of New
South Wales

Those of us who believe that it would be to the nation's benefit to have parts of our Constitution reformed must enlist the help of those who are best equipped to reach the minds of average Australians.

Besides encouraging community groups, educators and institutions interested in public affairs to use their opportunities and skills to stimulate discussion and debate on the Constitution, we also need to stir up interest and a sense of patriotic zeal in the media. To do this we need to target the likes of Kerry Packer, Rupert Murdoch, David Hill, John Laws and print flagships like 'The Age' and 'The Sydney Morning Herald'. Perhaps even more importantly we need also to target those bankers and receivers who now control most of our television industry.

For too long our political leaders have been content to leave Australians in the dark about the true meaning of Australian democracy. The time has come to turn the lights on and give every Australian a true sense of influence in his or her country's destiny as we approach the end of our first hundred years as a nation. □

Society changes, as do ideas, attitudes, needs and demands. If our constitution were to lock us into one particular form of social and political organisation, and if that arrangement were to become unacceptable to a majority or even a substantial number of people, then we would have created the conditions for revolutionary rather than evolutionary change. So, although a constitution in some ways resembles the scriptures, especially in the mystical revelation of its true meaning by the judicial high priests, there is really nothing sacred about the constitutional text.

Michael Coper
*Encounters with the Australian
Constitution, 1987, p 360.*