THE HIGH COURT IN SIR SAMUEL GRIFFITH'S TIME: CONTEMPORARY PARALLELS AND CONTRASTS

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It is now nigh on 90 years since the High Court of Australia began to sit in 1903. The challenges that then confronted the Court were many and varied. The fact that the Court was constituted as both the nation's constitutional and its ultimate appellate court presented some complex problems.

On the constitutional front, in the domestic area there loomed a tension between the assertion of dominant Commonwealth legislative power over matters that the Australian colonies had formerly considered to be their own preserve and the claim of the States to continue to regulate those very matters to the exclusion of the Commonwealth. That tension was to manifest itself very quickly in the assertion by both the Commonwealth and the States of power to levy taxes and duties having an impact on government instrumentalities and officials. The same tension was also to emerge in the field of industrial relations. The interpretation of the conciliation and arbitration power constituted something of an unknown. As events fell out, the power proved to be more controversial and to have greater practical importance than its architects realised at the turn of the century. Even today it stands at the very forefront of constitutional disputation.

Still on the constitutional front but in the international realm, the continued existence of an appeal to the Privy Council from Australian courts, including the High Court of Australia, contained the seeds of conflict between the Privy Council and the High Court. The possibility of judicial conflict reflected the political conflict that had emerged in the negotiations that led to the adoption by Great Britain of the Constitution in its final form. On the one side, the Australian side, there was the firm

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conviction, strongly shared by Sir Samuel Griffith, that it was for Australia's highest court to interpret the Australian Constitution, that being a task which could not safely be left to non-Australian judges unfamiliar with Australian conditions. Hence the inclusion in s.74 of the provision excluding the existence of an appeal in *inter se* questions in the absence of a certificate granted by the High Court. On the other side, the British, greatly concerned to protect British Imperial interests were determined to ensure that an appeal lay from the High Court to the Privy Council.

Although the Constitution established the High Court as the nation's ultimate court of appeal, it was necessary for the Court to establish its status and authority in the minds of the legal profession and the Australian communities. Despite the federal movement and the celebration of union in one nation, Australians were organised along State lines, as was the legal system. What the Constitution immediately achieved was to place the High Court at the apex of that system. As the legal profession in each State was closely associated with and looked towards the Supreme Court of the State, it was for the newly established Court to demonstrate its mastery of the principles of common law and equity and win over the allegiance of the State judges and the profession throughout the country. There is no doubt that it did so - very largely by the quality of its decisions and its reasoned judgments. That was one of the outstanding early achievements of the Court. To give but one example - Sir Samuel Griffith's definition of judicial power in *Huddart Parker & Co. Proprietary Ltd. v Moorehead*[1] has frequently been cited as the classic statement on the topic[2].

One step taken by the Court which was instrumental in gaining acceptance by the legal profession and the people was the decision that the Court should not stay put in Melbourne but sit in each of the State

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1 (1909) 8 CLR 330 at 357.

2 *Shell Co. of Australia Ltd v Federal Commissioner of Taxation* [1931] AC 275 at 295-296; *Labour Relations Board of Saskatchewan v John East Iron Works Ltd.* [1949] AC 134 at 149; *United Engineering Workers' Union v Devanayagam* [1968] AC 356 at 367-368.

capitals. That decision led to a trial of strength between Sir Samuel Griffith and the then Attorney-General, Sir Josiah Symon[3]. The Chief Justice prevailed, not without informing the Attorney-General that none of the Justices would sit in Melbourne, the principal seat of the Court, if their travelling expenses were withheld. This threat to "go on strike", as the Attorney-General described it, was the only occasion in the history of the Court when it did not sit or threatened not to sit.

The stand taken by Sir Samuel Griffith and the other Justices established the peripatetic pattern of the Court's sittings for the future. Not all Justices have agreed with the practice of sitting in all State capitals, but the pattern of sitting initiated in the early days continued until the Court moved to Canberra in 1980. In the lead-up to the move to Canberra, it had been thought that the Court would hear all cases in Canberra, though it was recognised that the hearing of Western Australian cases would impose a heavy burden on litigants from that State. Ultimately, it was decided that the Court would continue to travel, sitting in the four smaller State capitals for not more than one week a year, provided that there was sufficient work to justify such a sitting. Since 1980, the Court has continued to sit every year in Brisbane, Adelaide and Perth and, generally at intervals of three or four years, in Hobart. The Court also hears special leave applications in Sydney and Melbourne. So the pattern of the past continues into the present. How far into the future it will continue remains to be seen. Travelling and sitting in borrowed courts and chambers, away from our excellent facilities in Canberra, is a considerable inconvenience.

The history of the High Court in its early days reveals the tight control over the Court's administration and expenditure maintained by the Attorney-General's Department. Indeed, it was by means of control over expenditure that the Government had initially intended to prevent the

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[3] The extensive correspondence between the successive Attorneys-General of the Commonwealth and the Justices of the High Court is reproduced in The Parliament of the Commonwealth of Australia, *Papers Presented to Parliament,* (1905) vol.2, 1119, at 1161 (hereinafter "Parliamentary Papers").

Court from travelling. Sir Josiah Symon sought to impose a regime of economy on the Court by having only one of the associates and one of the tipstaves accompany the Justices on circuit, forcing one of the tipstaves to act also as usher in Sydney and Melbourne and reducing the number of telephones at Darlinghurst in Sydney from five to one[4]! Now that the Court has enjoyed administrative autonomy since 1980, this source of tension between the Court and the Attorney-General's Department has been eliminated.

The Federal Balance in the context of the scope of Commonwealth power and the High Court's position under the Constitution

The dominant feature of High Court constitutional jurisprudence in the era in which Sir Samuel Griffith was Chief Justice was the Court's concern with the preservation of the powers and status of the States. The cases which presented that issue for decision inevitably brought in their train other important questions - the status of the High Court, its relationship with the Privy Council and the Supreme Courts of the States. To those familiar with the course of the parts of the Convention Debates concerned with those matters of national concern to be entrusted to the Commonwealth, the Court's decisions have a rather different focus.

In the first important constitutional case, *D'Emden v Pedder*[5], the Court embraced the doctrine of inter-governmental immunities enunciated by Marshall C.J. in *McCulloch v Maryland*[6]. According to this doctrine, State laws could not "fetter, control, or interfere with, the free exercise of the legislative or executive power of the Commonwealth" [7] and vice versa. So Tasmanian stamp duty could not be imposed upon a receipt given by a Commonwealth official for his salary. Curiously enough, Griffith C.J. in argument suggested that, if the doctrine applied, s.109

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4 R.B.Joyce, *Samuel Walker Griffith*, (1984), 264; *Id* at 1139-1140.

5 (1904) 1 CLR 91.

6 (1819) 4 Wheaton 316.

7 *D'Emden v Pedder* (1904) 1 CLR 91 at 111.

"would appear to be unnecessary"[8]: that was the central thrust of the opposing argument which ultimately led to the overthrow of the doctrine in the *Engineers'* case[9].

In the next constitutional case, *Deakin v Webb*[10], the Supreme Court of Victoria in effect challenged the authority of the High Court by holding that State income tax was payable by Commonwealth public servants and, in doing so, distinguished *D'Emden v Pedder* on specious grounds, asserting that it was not bound by the High Court's reasoning. The High Court overruled the Supreme Court and strongly rebuked it for preferring Privy Council decisions to the High Court's reasoning in the earlier case. And, in refusing to issue a certificate under s.74 authorising an appeal to the Privy Council, the Court asserted its exclusive authority to determine *inter se* questions. Only once did the Court grant such a certificate. That was in 1912 in *Colonial Sugar Refining Co. Ltd v Attorney-General for the Commonwealth*[11] and that was only because the Court was equally divided upon the substantial question which arose for decision.

But recognition of the immunity of public servants from taxation protected no one but public servants. The application of the doctrine of inter-governmental immunities, as applied in the first two cases, did nothing to protect the revenue base of the States. So, in *Webb v Outtrim*[12], the States by-passed the High Court by appealing to the Privy Council. The Privy Council overruled the two earlier High Court decisions. Although the Privy Council rejection of the inter-governmental immunities doctrine foreshadowed the *Engineers'* case, the reasoning in *Webb v Outtrim* was vulnerable to criticism, a vulnerability that was subsequently exposed when the High Court re-affirmed the doctrine in *Baxter v Commissioners of Taxation (NSW)*[13], where the majority was able to

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8 *Id.* at 95-96.

9 *Amalgamated Society of Engineers v Adelaide Steamship Co. Ltd.* (1920) 28 CLR 129.

10 *Deakin v Webb; Lyne v Webb* (1904) 1 CLR 585.

11 (1912) 15 CLR 182.

12 (1906) 4 CLR 356.

13 (1907) 4 CLR 1087.

point to errors in the approach of the Privy Council to s.39(2) of the *Judiciary Act* 1903 and to the relevance of United States constitutional interpretation to a proper understanding of the Australian Constitution.

The decision in *Baxter* marked the final recognition of the exclusive authority of the High Court in the determination of *inter se* questions and, with it, the acceptance by the Supreme Courts and the legal profession of the status of the High Court at the apex of the Australian judicial system, subject to the appeal to the Privy Council. No question of conflict with that august body was to arise until the passage of legislation restricting the appeal from the High Court to the Privy Council, leaving on foot appeals from State courts in non-federal matters to the Privy Council[14]. The elimination of that appeal in 1986 put an end to the problem.

Linked to the doctrine of inter-governmental immunities was another doctrine, known as the reserved powers of the States, according to which the legislative powers conferred upon the Commonwealth Parliament were to be construed by reference to the powers of the States reserved by the Constitution, for example, ss.106 and 107[15].

With the arrival on the Court of Isaacs and Higgins JJ., the two doctrines came under increasing criticism. The extreme application of inter-governmental immunity had undermined its acceptability. And the reserved powers doctrine was susceptible to the criticism that the powers of the States reserved by the Constitution are no more than what is left to them after Commonwealth power has received its full interpretation; to limit the latter power by reference to the recognition of State residuary power is an inversion of the correct position. By the time the *Engineers'* case arose for decision, it was virtually inevitable that the two doctrines would be discarded. And so they were, giving way to what was described as interpretation according to the natural and ordinary meaning of the words of the Constitution (literal interpretation) supported by the

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14 *Caltex Oil (Australia) Pty. Ltd. v X.L.Petroleum (NSW) Pty. Ltd.* (1984) 155 CLR 72; *Attorney-General (Cth) v. Finch [No.2]* (1984) 155 CLR 107.

15 *R. v Barger* (1908) 6 CLR 41; *Attorney-General for NSW v Brewery Employees Union of NSW* (1908) 6 CLR 469 at 502-503, 533; *Huddart Parker & Co. Proprietary Ltd. v Moorehead* (1909) 8 CLR 330.

paramountcy of Commonwealth law as provided for in s.109 of the Constitution.

It has been suggested that the long term consequence of the *Engineers'* case, which the Court has constantly applied ever since, has been an expansion in the scope of Commonwealth power. The best illustrations of that assessment are the scope of the external affairs power as established by the *Tasmanian Dam* case[16] (in which an argument based on the notion of "federal balance" was rejected) and *Richardson v Forestry Commission*[17]; the corporations power which, according to its modern interpretation, enables the Commonwealth to regulate the activities of corporations[18], thereby relegating the trade and commerce power to a position of comparative unimportance; and the taxation power which has contributed to the Commonwealth's dominant financial position in the Australian federation[19]. The *Engineers'* case opened the way to an interpretation of Commonwealth powers which made them effective instruments for the government of one nation as distinct from six separate communities. In the same way, the development of the external affairs power coincided with Australia's emergence as an independent nation within the community of nations.

It was once thought - incorrectly - that the *Engineers'* case banished the drawing of implications from the Constitution. Subsequently, it was recognised that there is an implied prohibition against the Commonwealth exercising its legislative power so as to discriminate against a State unless the nature of the particular power indicates otherwise[20]. And there is an implied prohibition against the Commonwealth legislating so as to threaten the existence of a State or so as to interfere with its general

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16 *The Commonwealth v Tasmania (The Tasmanian Dam Case)* (1983) 158 CLR 1.

17 (1988) 164 CLR 261.

18 See, for example, the *Tasmanian Dam* case (1983) 158 CLR at 146-153, 179-180, 268-272.

19 See, for example, *Northern Suburbs General Cemetery Reserve Trust v The Commonwealth of Australia* (High Court, unreported, 11 March 1993).

20 *Queensland Electricity Commission v The Commonwealth* (1985) 159 CLR 192.

capacity to function[21]. Commentators say that these implications, as expounded so far, have not conferred much protection on the States. Certainly they do not offer as much to the States as the implications drawn from the Constitution by the High Court pre-*Engineers'* case.

The Federal Balance, the arbitration power and the financial relationship between the Commonwealth and the States

The tension arising from the impact of the exercise of Commonwealth power on the States was at its highest in the field of industrial relations from the very advent of Federation. That tension was accentuated by the High Court's constructive approach to the conciliation and arbitration power. That approach endorsed the creation of paper disputes by trade unions serving logs of claims on employers and employer associations. In the *Jumbunna* case[22], the Court held that the power extended to the incorporation of associations of employers and employees and that the non-acceptance by employers of a demand for terms and conditions of employment made by such an association of employees could give rise to an industrial dispute extending beyond the limits of a single State. The Court also gave the power great regulatory scope by recognising the existence of a paper dispute generated by non-acceptance of a comprehensive log of claims.

The prospect of the old Arbitration Court and its successors regulating the terms and conditions of State public servants has given rise to some concern. That concern contributed to the rather narrow interpretation of "industrial dispute" (dispute in an "industry") favoured by the High Court until the recent decision in the *Social Welfare Union* case[23]. In consequence of that interpretation, a dispute to which State school teachers were a party was not an "industrial dispute"[24]. The interpretation

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21 The *Tasmanian Dam* case.

22 *Jumbunna Coal Mine No Liability v Victorian Coal Miners' Association* (1908) 6 CLR 309.

23 *R.. v Coldham; Ex parte Australian Social Welfare Union* (1983) 153 CLR 297.

24 *Federated State School Teachers' Association of Australia v State of Victoria* (1929) 41 CLR 569.

was discarded in favour of the ordinary meaning of the expression, but the Court acknowledged that the core of the old problem still remained to be solved, stating that it was unnecessary[25]:

> to consider whether or not disputes between a State or a State authority and employees engaged in the administrative services of the State are capable of falling within the constitutional conception.

After referring to the implications drawn from the federal structure, the Court went on to say[26]:

> If at least some of the views expressed [in certain cases] are accepted, a Commonwealth law which permitted an instrumentality of the Commonwealth to control the pay, hours of work and conditions of employment of all State public servants could not be sustained as valid, but ... the limitations have not been completely and precisely formulated.

So, notwithstanding the lapse of 90 years, that age-old question remains unsolved. Its solution is closely associated with the implications to be drawn from the Constitution. The precise application of those implications is by no means completely settled.

A similar or stronger comment may perhaps be made about s.90 and duties of excise. That provision is of critical importance in the financial relationship between the Commonwealth and the States. However, the interpretation of s.90 is but one element in a mosaic the effect of which has been to elevate the Commonwealth to a position of financial dominance in the Australian federation. The significant developments leading to this result all occurred after the departure of Sir Samuel Griffith. The introduction of s.105A into the Constitution and the making of the Financial Agreement in consequence of the Great Depression, the

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25 *Social Welfare Union Case* (1983) 153 CLR 297 at 313.

26 *Ibid.* But cf. *Re Lee; Ex parte Harper* (1986) 160 CLR 430, per Mason, Brennan and Deane JJ. at 452.

Uniform Tax cases approving the displacement of State income taxes[27] and the approval by the Court of conditioned grants to the States under s.96[28] have reduced the States to financial dependants of the Commonwealth.

The Interpretation of Individual Guarantees

One commentator asserted that there is "an almost perverse contrast" between the High Court's elevation of s.92 into "a guarantee of personal economic liberty" and the Court's "near emasculation of any section of the Constitution which does have a hint of intended protection for individual rights or personal freedoms"[29]. The decision in *Cole v Whitfield*[30], treating s.92 as a prohibition of discrimination against interstate trade in a protectionist sense, has displaced the first part of this criticism. But it must be said that, for the most part, the interpretation by the High Court in the time of Sir Samuel Griffith of the guarantees contained in the Constitution was influenced by an antagonism to the American Bill of Rights, proceeding from a Diceyan view of parliamentary supremacy and a powerful conviction that the common law was an adequate protection of fundamental rights. In this respect, we should not forget that the Convention refused to adopt a Bill of Rights, rejecting the United States model.

In the upshot, s.80, read literally as a guarantee of trial by jury on indictment without any obligation to provide for trial on indictment, induced Barwick C.J. to say[31]:

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27 *South Australia v The Commonwealth* ("the *First Uniform Tax* case") (1942) 65 CLR 373; *The State of Victoria v The Commonwealth* ("the *Second Uniform Tax* case") (1957) 99 CLR 575.

28 *Victoria v The Commonwealth* (1926) 38 CLR 399; *Attorney-General (Vict.); Ex rel. Black v The Commonwealth* (1981) 146 CLR 559.

29 Coper, *Encounters with the Australian Constitution*, CCH Australia, North Ryde, 1987, at 316.

30 (1988) 165 CLR 360.

31 *Spratt v Hermes* (1965) 114 CLR 226, at 244.

> What might have been thought to be a great constitutional guarantee has been discovered to be a mere procedural provision.

Likewise, s.117, which is directed against discrimination based on State residence, was narrowly construed by the early High Court. Thus, the section was held to have no application if the impugned discrimination was not based solely on residence[32]. This interpretation represented the triumph of form over substance and was scarcely appropriate for the construction of a provision which would today be characterised as a guarantee of a fundamental right. Contrast the modern interpretation given to the section in *Street v Queensland Bar Association*[33].

Contrast also the manner in which the Court recently drew from the structure and text of the Constitution an implied guarantee of freedom of communication in relation to public and political affairs[34]. Just as the early High Court drew the implication of inter-governmental immunity from the federal structure of the Constitution, so the present Court drew the implied guarantee from the structure of representative government for which the Constitution provided. But the objects of the two exercises were different: one was to protect governments; the other to protect representative government and the right of the citizen to participate in that system of government. On the other hand, the two approaches have this in common - they do not depend upon a literal reading of the text of the Constitution, they look beyond the particular provisions to the structure that the Constitution brought into existence and to the purposes which it was intended to serve.

Contrast also the manner in which some members of the Court in *Leeth v The Commonwealth* [35] distilled from the Constitution, by way of

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32 *Davies and Jones v The State of Western Australia* (1904) 2 CLR 29.

33 (1989) 168 CLR 461.

34 *Nationwide News Pty. Ltd. v Wills* (1992) 66 ALJR 658; 108 ALR 681; *Australian Capital Television Pty. Ltd. v The Commonwealth [No.2]* ("the *Political Advertising* case") (1992) 66 ALJR 695; 108 ALR 577.

35 (1992) 66 ALJR 529; 107 ALR 672.

implication, a prohibition against discriminatory treatment of people by reference to the application of different State sentencing provisions applying to persons convicted of offences against Commonwealth law. The foundation for this implication was the doctrine of legal equality of treatment taken from the common law. In this way, the Constitution was interpreted in the light of a fundamental doctrine or principle said to be embedded in the common law. As I observed in the *Political Advertising* case[36], in view of the Convention's refusal to adopt a Bill of Rights, it would be a difficult, if not impossible, task to imply general guarantees of fundamental rights in the Australian Constitution. But, even in the absence of a Bill of Rights, the courts engage in the interpretation and application of particular statutes protecting fundamental rights to a greater extent than they did in Sir Samuel Griffith's time. That is because fundamental rights did not emerge on the international stage as the great driving force until the second half of this century.

Interpretation of the Constitution

It has been said that the early Court interpreted the Constitution literally. In some respects, that is a correct statement. The Court's interpretation of the individual guarantees was legalistic and its refusal in 1904 in *Municipal Council of Sydney v The Commonwealth*[37] to have regard to the Convention Debates as a possible guide to the interpretation of the Constitution was a striking example of literal and legalistic interpretation. The reasons advanced in argument for that view are very similar to those stated by Latham C.J. in the *First Uniform Tax* case[38] for refusing to take account of parliamentary proceedings when interpreting a statute. Latham C.J. was himself regarded as a judge who was dedicated to what Sir Owen Dixon described as "strict and complete legalism".

But there was another side to the early Court's interpretation of the Constitution. As I have said, it was prepared to make important and far-

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36 (1992) 66 ALJR 695 at 702; 108 ALR 577 at 592.
37 (1904) 1 CLR 208 at 213-214.
38 (1942) 65 CLR 373 at 409-410.

reaching implications from the text and structure of the Constitution. The implications of a federal nature which it favoured were more extensive than those which have subsequently found favour. And the implications which the early Court favoured were influenced by a view of Australia, no doubt correct in those days, as a country that consisted of a series of separate communities organised in States, in which intra-State trade and industry was of greater importance than interstate trade and, accordingly, was better left to State regulation and control. As time passed that vision of Australia gave way to the reality of a developing nation with national interests taking shape. Hence, the *Engineers'* case and the rise of literal interpretation to a pinnacle not reached by the early Court.

One other aspect of constitutional interpretation as practised by Sir Samuel Griffith and his two colleagues should be mentioned. A reading of their judgments reveals an extremely perceptive appreciation of the relationship between the various branches and institutions of government and of the workings of government and administration. No modern reader can fail to be impressed by their commanding understanding of these aspects of public affairs. Unquestionably it contributed to their constructive approach to the conciliation and arbitration power.

Nowadays literal interpretation and doctrinaire legalism are in the discard. Instead, interpretation variously described as "liberal", "progressive", "purposive" or "dynamic" prevails. But, except in relation to the constitutional guarantees, it would not be wrong to count Griffith C.J., Barton and O'Connor JJ. as exponents of purposive construction. It is ironic that, being illustrious participants in the Conventions, they abjured the assistance that the Debates are capable of providing. Eighty years and more were to elapse before *Cole v Whitfield* [39] recognised that they are a legitimate aid to construction.

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[39] (1988) 165 CLR 360.

The Development of the Common Law

Whilst the early High Court, particularly Griffith C.J. and Isaacs J., demonstrated a fine knowledge and understanding of the principles of common law and equity and, as well, great ability in the art of statutory interpretation, the Court did not develop the common law to any great extent. Since Sir Samuel Griffith's time significant changes have taken place which bear directly on the Court's role in developing the common law. First and foremost, there was the elimination of the appeal to the Privy Council which left the Court with the sole responsibility for developing the Australian common law, a responsibility which necessarily entails that English precedents may not be as authoritative as they once were. Almost certainly, a decision such as *Mabo*[40] would have been a matter for the Privy Council in Sir Samuel Griffith's day[41]. Secondly, the old theory, well accepted in the first quarter of this century, that the courts merely declare the law, has been discarded. Thirdly, the legislatures are increasingly leaving it to the courts to elucidate and develop the principles of judge-made law. Fourthly, Australia, having asserted its autonomy as a member of the community of nations, has acceded to a variety of international conventions by which it has bound itself to ensure that its municipal law conforms to the requirements of those conventions. Fifthly, the rules of international law, particularly when they declare universal fundamental rights, are an important and relevant factor in the development of the common law. And, finally, the elimination of the appeal as of right has meant that the Court's appellate function is very largely directed to the elaboration of the principles of judge-made law and to important questions of statutory interpretation rather than mere application of legal principle.

All these considerations have significantly altered the role of the Court in developing the common law.

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40 *Mabo v The State of Queensland [No. 2]* (1992) 175 CLR 1.

41 At that time the High Court may well have felt that it should follow the Privy Council's decision in *Cooper v Stuart* (1889) 14 App.Cas. 286, which accepted and applied the doctrine of *terra nullius*.

A survey published recently in a national newspaper suggested that 42 per cent of the people surveyed were unable to give any correct answer when asked what the Court does[42]. On first sight, this is a somewhat surprising figure, especially following a year when the Court has attracted more than its usual share of media attention. However, the contrast between popular and political-legal attitudes is not new. When the *Judiciary Bill* was first introduced, the press described the proposed Court as a "splendid luxury" providing sinecures for the politicians proposing it[43]. Deakin on the other hand, adopting the American language, described it as the "keystone of the federal arch" and the protector of the Constitution[44].

In opening, I observed that the challenges facing the Court when it first sat in 1903 were many and varied. Nearly 90 years later they remain so. Sir Samuel Griffith and the first Court helped make real the Constitution's dual conception of the Court both as interpreter and protector of the Constitution and as the Commonwealth's ultimate appellate court. But, although the Court's place is now secure, a number of those challenges that faced the first Court remain pressing today.

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42 *The Weekend Australian*, 20 March 1993, 1-2.

43 See Galligan, B. *Politics of the High Court*, University of Queensland Press, Brisbane, 1987, at 73.

44 Australia, House of Representatives, *Parliamentary Debates* (Hansard), 18 March 1902 at 10967.