

Foreword

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In the Foreword to Volume 2 of these Proceedings, arising from the Society's July, 1993 Conference I remarked that, during the preceding twelve months, three areas in the overall constitutional debate had "taken on enormously enhanced importance": the republic debate; the Aboriginal question (the Mabo Case and all that); and the interpretation by the High Court of the external affairs power, Section 51(xxix).

Twelve months later again, those three topics remain to the fore in the general constitutional debate, and it is appropriate therefore that these Proceedings of the Society's most recent Conference, held in Brisbane on 29–31 July, 1994 should reflect that emphasis.

Interestingly, however, the debate which has arisen out of Mabo, and the growing focus upon the perversion of our whole Constitution to which the High Court's interpretation of the external affairs power has given rise, have also begun to lead to a focus upon the Court itself. Its composition and manner of appointment, its openly exposed pretensions to "legislate" in areas where it is clearly for elected legislatures to do so, and the remarkable interventions in the public debate by some of its members, and particularly its present Chief Justice, Sir Anthony Mason, are all matters which are now generating the most lively discussion in their own right. Thus the first paper in this volume, namely the address by Mr S E K Hulme, QC to the opening dinner of the Conference, is of particular interest, dealing as it does so deftly with a number of those aspects of the Court's performance today.

Arising also out of the debate on the external affairs power are the growing concerns about the manner in which our Government in Canberra has recently moved to invite non-Australian bodies to adjudicate formally upon our internal affairs. The attack upon both our international independence and our domestic democracy which these developments entail was, therefore, appropriately addressed by two of the papers before the Conference.

In that same Foreword referred to earlier, I expressed the view that most of the issues to whose discussion The Samuel Griffith Society is devoted "come back, in the end, to one simple question: do we, or do we not, wish to see more power being exercised in Canberra?"

There is no doubt as to the answer of the Australian people to that question. Thus, it may be no accident that greater interest is now being displayed throughout Australia in a menu of possible "people's power" dishes going under the generic names of "citizens' initiative" and "voters' veto". In a separate but related context, growing dissatisfaction is also being expressed with the monopoly at present enjoyed by the Commonwealth Government in the proposal of referenda under section 128 of the Constitution; the feeling is growing that that power should be extended also to the Parliaments of the States under certain clearly defined conditions.

For the first time since the Society's inception, its Conference program on this occasion was marred, formally at any rate, by the politically induced last-minute withdrawal forced upon Mr Peter Reith, MP, who had been scheduled to speak on the topic Let's Give Democracy a Chance. One result of that development was a lively and intelligent discussion of the issues by the audience generally during the time originally scheduled for Mr Reith's paper. Among other things, that discussion suggested that, despite the general reluctance of many politicians on the matter, and particularly of those making up our various Executive governments, the voters will more and more demand a more direct voice in their own governance. In the market-place of

politics, the (major) party which is first prepared to offer it to them will undoubtedly enhance its appeal substantially by doing so.

Needless to say, this is not an outcome likely to commend itself to those who wish to see more power focused in Canberra, and more of that Canberra power concentrated there in the hands of small elites. For those very reasons, it is likely that discussion of the issues involved in the concepts of "citizens' initiative" and "voters' veto" will be appropriate to this Society in the future.

To conclude, the eleven papers which make up this fourth Volume of the Society's Proceedings again provide solid fare for those interested in the workings of our Constitution, and concerned about some of the directions in which they have been developing. To adapt the well-known, albeit unfortunate, phrase of the Prime Minister's, they constitute another step in the fundamentally democratic process of publicly providing the materials for "the debate we have to have".

It is to that debate that this Volume, like its three predecessors, is dedicated.