

Dinner Address

Reinventing the Federation

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It is a delight to be here tonight: to be among people whose rigorous conservative convictions guarantee a stimulating evening ahead of a weekend of debate and discussion that will at times be robust.

I chose my topic for tonight's speech very deliberately, because it is clear to me, as it is to a great many others on the conservative side of the national debate, that we really have no choice but to reinvent the federation.

Without this action, the federation will be irreparably damaged, perhaps fatally so, and the people's freedoms with it.

That would be a very serious crisis.

And this is of course a serious occasion, even though in the convivial ambience of dinner.

But if you will allow one small pun, can I say that in no way is it hard labour to spend time among people who share the conviction that conservatism not only has a glorious tradition and a fine record of achievement, but also a glorious future.

That future demands some very hard work. It is a great national task to achieve a better future than we have a past — and we have a wonderful past.

This work must never cease. A little fable from the writer Italo Calvino comes to mind to illustrate this point. In his book *Invisible Cities* he writes of Thekla, a city forever under construction.

One passage is remarkably to the point where we are concerned tonight, to canvass the question of reinventing the federation.

Calvino writes:

“If you ask, ‘Why is Thekla's construction taking such a long time?’, the inhabitants continue hoisting sacks, lowering leaded strings, moving long brushes up and down, as they answer, ‘So that its destruction cannot begin’ ”.

Moving from the mythical Thekla to the real Australia, the lesson is absolutely obvious. The Founding Fathers provided a foundation stone. They gave the vital spark to a dynamic new nation and clothed it in the fine cloth of federalism.

They pointed us towards a future they knew — with the easier certainties of earlier times — they could not design, but for which, in their wisdom — and that included the wisdom to comprehend the real dynamics of politics and the true motivation for individual and communal advancement — they provided a signpost.

It is about that future and our path to it that I want to talk tonight.

I want to talk about the future in the same vein as the Founding Fathers did, indeed as that fine Queenslander Samuel Griffith did.

I want to talk about the future of our country, about the future of our Federation, in the context of the process of renewal that any dynamic society, and any energetic people, must make a continual process if they are to advance.

I believe we — conservatives, some thinkers, some doers, together a great coalition — can point the way.

The context in which Australians must advance their interests and those of their country is complex. It is the promise of diversity that is our strength, and the danger of division — and I mean the division of ideals, not of geography or political jurisdiction — our greatest challenge.

At the Constitutional Convention in Canberra in February I made the following comments. They were received quite well, for which I am modestly grateful. They are entirely apt for our deliberations here tonight. I said:

“Even if Federation in 1901 failed to confer the full measure and quality of independence we enjoy today, subsequent Acts of the British Parliament and the several legislatures of Australia remedied that condition ...

“Time passes. People and nations change. This is recognised and welcomed everywhere. The Australia about to enter the second century of its magnificent federation is a country the founders of federation would hardly recognise. But we are not unique in that sweep of change — only in the measure of it and our responses to it.

“Where we are unique is in being Australian, in the world view we have developed, and in our many relationships in the region and throughout the world. We are unique in having created our own way of dealing with life and events”.

The argument I was advancing at the Convention was the case for the constitutional monarchy, for the existing system, for the Constitution we know and live under, and which has protected us so magnificently for near a century.

The sound principle — that something is not an anachronism just because of the passage of time; and certainly not just because some fevered scribblers and in-your-face lawyers say it is — is just as pertinent in the argument over federalism.

It is my argument — and I think in general terms it is the conservative argument — that in the Australian context federalism equals freedom.

That political freedom complements and enhances our great diversity.

That diversity makes us all richer, materially as well as spiritually.

And that the highest task of government is to advance the material and spiritual wellbeing of the people.

Geoffrey Walker, who on Sunday will be giving a paper entitled *Ten Advantages of a Federal Constitution*, and who very kindly sent me an advance copy of it, takes the view that the 21st Century will be the era of federalism worldwide.

Australia is in the vanguard yet again.

He suggests — I won't canvass the detail here — that the spread of global capital and the end of bipolar superpower confrontation empowers the argument in favour of federalism.

I think he's absolutely right. In a much more competitive world, governments simply have to maximise every chance for the people who elect them to benefit from the new rules.

Conservatism has a head start there, because conservatism is all about the competitive spirit.

One of the most exciting things about Australia is its diversity.

The diversity of its geography.

The diversity of its ecology.

The diversity of its climates.

The diversity of its people.

And most of all, the diversity — the astonishing depth and breadth of the diversity — of its opportunity.

A century after the closing chapters of the great movement that made this continent a nation, we have to admit that the Founding Fathers did not have precisely the same vision we have today.

But that doesn't mean it was narrower or less responsive to challenge. In fact, I would submit, it was actually far broader and more responsive than much of what passes for genuine debate today.

One of the most important lessons of history is that rewriting it is a self-serving, sterile and potentially dangerous pursuit. There is not enough history taught. If there were, the foolishness of

applying the standards of one's own time to the events and politics of the past would be crystal clear.

The Founding Fathers reacted to their world. They created a nation — a federal nation — in the midst of the greatest empire the world has ever known.

It isn't fashionable to make that point these days. It doesn't go with the black armbands, for one thing, or with the wrong-headed determination of the post-history generation to rework everything from the wheel onwards.

Of course the world of the 1890s was an entirely different one from the world we inhabit on the cusp of the new millennium.

The little world that was Australia a century ago was also very different from today's Australia.

It is the genius of conservatism — of open-minded, inquisitive conservatism — that it builds productively on the past instead of wastefully deconstructing it.

Of course the world has changed radically over the course of the past century.

Conservatives respect this fact and work forward from it, advancing ideas in the veritable presence of the past. Conservatives draw inspiration from the past, and gain sustenance from it.

Conservatives know it makes no sense to ignore the lessons of history or to denigrate them.

Some of you may remember that in February, 1997 (we were celebrating the first anniversary of the State Coalition Government — we celebrated the second anniversary too, but sadly, and with modest determination I think wrongly, won't be celebrating a third) I gave a speech that set rather a lot of hares running.

It was the now famous — some might say infamous — attack on the High Court.

In fact it was nothing of the kind, but it was portrayed as such by the media, which declared it a site of national significance and immediately fenced it in with hundreds of thousands of angry words.

Its chief problem was that it caused injury to the prevailing orthodoxy. We all know that in these days of liberty, only by permission of the great and powerful, or at any rate the most noisy, is that permissible. Otherwise, causing injury to a prevailing orthodoxy is very nearly a hanging offence.

I had no course open to me other than to plead guilty. That's another benefit of living under the rule of lore - that's L-O-R-E.

Because tonight's topic suggests that revisiting of this issue might be useful, I'm going to repeat a little of what I said back then, in February, 1997. With public spiritedness, I plead guilty in advance, thereby I hope saving the bailiffs some of their resulting workload.

I said then — and it is just as apposite now, despite changes to the Court since the dark day on which I gave voice to heresy — that we do not see a High Court which is motivated by what that great Australian jurist Sir Owen Dixon called "strict and complete legalism".

Instead we have judges who are anxious to radically change the law. The dynamic approach to constitutional interpretation, first advanced as a judicial theory by the then Chief Justice of the High Court a decade ago, has been taken up enthusiastically.

This newly defined activism has produced judgments which have implied a number of far-reaching rights based neither on the provisions of the Constitution nor its structure.

They are based instead on the alleged assumptions of the Australian people when they voted for the Constitution a century ago or the supposed intent of those who laboured so honourably to frame the Constitution.

Jurists have in effect raised the remarkable — and I still think remarkably dangerous — proposition that there are yet to be discovered, and only judicially identifiable, rights and restrictions that have their origin outside of the Constitution.

If we are to reinvent our federation — and I believe we must — then we must look towards a Court that cannot agree with the view of Mr Justice Kirby that there is “no clear divide which marks off the limits of judicial creativity”.

The several legislatures of Australia hold sway over the several separate sovereignties that make up our great Federation. It is there — less than in the law, although law reform is an essential part of governance — that the great project to improve and broaden federalism must take place.

This will take goodwill — and I believe we have goodwill in abundance, since we are all Australians and rightly pursue a common national goal.

That goal, lest anyone not be aware of our fundamental driving force as a people, is to advance Australia.

But this does not mean the States ceding more and more power to the Commonwealth, until eventually they become merely the supine distribution agencies of an all-powerful central government.

It does not mean the States must give up more and more of what makes each of them unique within our Federation.

It does not mean that, because we all think of ourselves as Australians first, we should give even a second's thought to becoming a unitary state, even one with the sort of emasculated regional structure that strong central governments and their bureaucracies prefer — the better to leg-ropo them.

We are 18 million people on an island the size of the continental United States, the inheritors of a millennium's worth of democratic development, the beneficiaries of a system and a society that has planted roots, once alien, now native, in a place far distant from whence the overwhelming majority of us sprang.

We cling to the coastal strip — although less so in Queensland, where our proud boast is to be Australia's most decentralised State — in disparate and distant communities. We are brought together by our nationalism, and held apart — and I believe productively held apart — by the very diverse nature of our populations and circumstances.

What we must do therefore is build upon that natural advantage. It is always possible to agree to disagree. A federal system means choice — even at the very basic level of agreement over local issues.

But a true federal system, a truly responsive federation, must devise an operational arrangement that represents a compact between equals. Reinventing the Federation will require tremendous goodwill, an openness of mind that frankly has often eluded us in the past, and a commitment to sensible change.

The final extent and scope of that change can be left for another time. I would simply say that it should be the maximum possible, so that Victorians can be Victorians, New South Welshmen can be New South Welshmen, Tasmanians can be Tasmanians, South Australians can be South Australians, West Australians can be West Australians, Territorians can be Territorians and Canberrans - unless they live at Queanbeyan! - can be Canberrans.

Queenslanders will be Queenslanders, as always. And that's not just a throwaway line: genuinely, and I believe beneficially, Queenslanders really have always been different.

If we are to reinvent the federation, and make it work better than ever and to our collective benefit, then there are some essential reforms to look at.

We must have a properly effective federal-State compact, one that deals with the federal aspects of Australian affairs, and which is genuinely a partnership of equals.

We must end the financial nightmare created by the Commonwealth's super-preponderance as the nation's revenue raiser.

We must, as a necessary adjunct of this, fundamentally reform the taxation system so that the States have their own growth revenue streams.

We must eliminate wasteful duplication — by a sensible redistribution of powers and responsibilities.

And we must do all of this in a way that harnesses the unique advantages of each separate component of this Federation.

It is true that this is a tough call. It is something that will need vision to see it through.

But the vision of what might result if we do not reinvent the federation, if we flee the field and leave it to the centralists, is one that should alarm everyone.

Not simply for the opportunity lost, but for the future not gained.

Thank you for your indulgence in listening to me tonight. I wish the Society good fortune and your Conference success.