

Foreword

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The twelfth Conference of The Samuel Griffith Society was held, finally, in Sydney in November, 2000, and this Volume of the Society's Proceedings, *Upholding the Australian Constitution*, contains the papers, and Dinner addresses, delivered to that Conference, together with the brief concluding remarks of our President, the Rt Hon Sir Harry Gibbs.

I say "finally" because plans had originally been made for a Conference of the Society in February, 2000 focused around the single issue of Sovereignty, and taking advantage of the then expected presence in Australia of a delegation from the United States Congress, from which three eminent speakers at the Conference were to have been drawn. At the last moment, and much to the mortification of the Board of Management, the Congressional delegation's plans underwent such significant change that those speakers' Conference participation would no longer have been possible. Accordingly, the Conference had to be cancelled, to be restored only nine months later.

One brand was however saved from this burning. Professor Kenneth Minogue, who had arranged to come to Australia to speak at the originally intended Conference, was able to maintain his travel plans and, as a result, delivered two splendid Occasional Addresses in Melbourne and Sydney respectively. Those addresses, together with the Hon Peter Walsh's excellent address launching Volume 11 of these Proceedings, now appear as Appendices to this Volume. Professor Minogue's address on Australia's place in, and the world significance of, the so-called "Anglosphere", sheds a fascinating light on why, despite all the fashionable chatter about "national identity", "multiculturalism", and so on, Australia is the kind of successful constitutional democracy that it is today.

The most prominent topic of the twelfth Conference was, as indicated, Sovereignty, and it is clear that this is a topic to which the Society is likely to return. Certainly, nothing could be more subversive of the foundations of our present Constitution than the direct and indirect attacks upon Australia's sovereignty now launched almost daily by one set of international legal activists or another. Even the outpourings from the word-processor of Mr Justice Kirby are outdone by the torrent of treaty-making and other such activities which emerge daily from the doors of the United Nations and its subsidiary agencies.

Mention of the regrettable case of Mr Justice Kirby leads, of course, to the more general question of judicial activism and the whole issue of the separation of powers (and their obverse, responsibilities) between Parliament and the judiciary. The two papers in this volume relating to the topic of mandatory sentencing not only bear directly on that issue, but also indirectly (because of attempts by the U.N. on Human Rights Commission to put its interfering oar into Australia's domestic political water) on the issue of sovereignty. Whatever one's views may be on the topic of mandatory sentencing (and I freely confess that on this issue my own views are, most unusually, somewhat at odds with those of our President!), the two papers on that topic by the President of the NSW Bar Association, Ms Ruth McColl, SC, and the Chief Minister of the Northern Territory, the Hon Denis Burke, MLA are, each in their own way, models of exposition of the arguments.

When the Board of Management was arranging the twelfth Conference, the fact that Saturday, 11 November, 2000 would mark the 25th anniversary of the day on which the then Governor-General, the late Sir John Kerr, was forced to do his duty and dismiss the Whitlam Government, entirely escaped its attention. This oversight once rectified, however, it was obvious that the Dinner address that evening should be devoted to a retrospect on what the late Alan Reid's still gripping book called "the Whitlam venture". Mr Peter Ryan, whose courage has been

tested (and never found wanting) in both war and peace, rose valiantly to the occasion.

Since this was the first Conference of the Society to follow the 1999 constitutional referendum on the Republic issue (and the associated one on the proposed new constitutional Preamble), it seemed only appropriate to mark those events by two post-mortem papers from Sir David Smith and Mr Malcolm Mackerras, respectively (as well as a small, but none the less telling, note on media bias during the republic referendum campaign by the Secretary of the Society, Dr Nancy Stone). All those contributions make fascinating reading for anyone interested in either the conduct of that campaign, or its outcome.

As this Foreword is written – in Melbourne during the Centenary of Federation celebrations – it is appropriate to reflect upon the fact that, the bitching and moaning of the black arm-band brigade notwithstanding, Australians have much to be proud of (as well as some things to regret) in the history of their highly successful, now century-old, democracy. The papers by Professor Geoffrey Blainey (who tells us, by the way, of the exegesis of that “black arm-band” term) and Professor David Flint convey, each in their own way, a sense of quiet overall pride in that achievement. As such, they brought the twelfth Conference to a fitting close.

These papers (including, as noted earlier, the three Appendices) spread a rich and varied menu before the reader. They deserve to be widely read, and widely debated. It is to that objective that this Volume, like its eleven predecessors, is dedicated.