

## Introductory Remarks

John Stone

Ladies and gentlemen, welcome to this, the nineteenth Conference of The Samuel Griffith Society.

The Society, as most of you know, began in Melbourne, where Nancy and I were living at the time, and it is a pleasure to return to a city of which we have the most pleasant memories. To this day, Victorians constitute more of our members than those from any other State. Perhaps that may partly explain the fact that our numbers for this Conference are, I believe, a record.

Certainly, our numbers at dinner last night were indeed a record—a fact which, however, must be attributed not only to the quality of our speaker, Professor Geoffrey Blainey, but also to the high personal regard and affection in which he is held by Australians generally.

Needless to say, those who came last night to hear Professor Blainey were not disappointed. In his thoughtful and, as always, understated address, *What should we say about our Federation?*, he told us so much about the story of our nation—weaving, as he did so, strands of individuals' histories into his broad tapestry of our country's progress. When, towards the end of his remarks, he said that finally, if we would forgive him, he would “conclude by actually reading from some text”, the gasp from the audience was audible. It was a fine address from a fine man. We were fortunate to hear it, and the readers of Volume 19 of our Proceedings will be (almost) equally fortunate.

In the course of preparing these introductory remarks, I looked back at those I made at our Canberra conference in May last year. At that time, you will recall, the *Work Choices Case* before the High Court had only recently concluded, and the Court had reserved its judgment. Referring to that, I said:

“I am confidently informed on all sides, by persons much more learned in the law than I, that the plaintiffs will lose their case and that the Commonwealth will prevail”.

To this, I said:

“I can only reply ... that I have too high an opinion of most of the Justices to believe that they would actually commit such a monstrosity as that would entail”.

As you all know, I was wrong. In all but two cases, the Justices *did* commit that monstrosity, thereby creating for themselves a place in our constitutional interpretative history no less important, because no less debased, than the Isaacs Court in its infamous 1920 judgment in the *Engineers' Case*.

The two valiant dissenters were, as you know, Mr Justice Ian Callinan and Mr Justice Kirby. Mr Justice Callinan (together with Mrs Callinan) have honoured us by their presence this weekend, and I take this opportunity of reiterating the appreciation that I expressed to them last night for doing so. With less than a fortnight before he retires from the High Court bench, Mr Justice Callinan's attendance here today is all the more remarkable.

I could say much more about the *Work Choices Case* and its outcome. Since, however, we are to have four papers on the topic this morning, I shall refrain.

For the rest, our program this week is characteristically eclectic. At a time when the federal government seems bent upon invading one area after another of State responsibilities (note that I say “responsibilities”, not “rights”), two papers after luncheon will canvass respectively the financial, and the political, aspects of a Federation that is clearly operating today within a centralist environment. After that we shall return to a topic, Bills of Rights, that was so well canvassed last year, and which was, incidentally, close to the heart of our former President, the late Sir Harry Gibbs. Then, at dinner tonight, we shall have a *jeu d'esprit* from Paul Houlihan. An allegorical fable about the current outlook for workplace relations and the trade union movement, it will bring the day to a pleasurable close.

In the last two years two important books have been published bearing upon the role of the Crown in Australia's constitutional arrangements. Each, in its own way, has put to shame Australia's academic constitutional lawyers. The first of them, *Head of State*, was written by our President, Sir David Smith. The second, published last year by Dr Anne Twomey (now an Associate Professor at Sydney University), is entitled *The Chameleon Crown: The Queen and her Australian Governors*. It is a fascinating book, the product of

meticulous research and genuine scholarship. So tomorrow morning we shall have two papers on the Crown in Australia, one by Dr Twomey herself and another by one of our younger members, Michael Manetta, which both promise to be thoroughly enlightening.

When I was framing this Conference program earlier this year, the state of affairs among Australians of Aboriginal descent continued to give rise to something approaching despair. Since then, we have seen the genuinely hopeful development of the major initiative now being undertaken in the Northern Territory at the instigation of Mr Mal Brough. Dr Geoffrey Partington, who is to close our Conference tomorrow with his paper *Thoughts on Terra Nullius*, may in these circumstances be sorely tempted to stray into those more topical aspects of what we have always described as *The Aboriginal Question*. We must wait and see.

Now it is time to get the Conference proper under way. Julian Leaser will do so with the first of four papers in our session on *Work Choices and the Federation*. His paper is entitled *Work Choices: Did the States run dead?*, and since I am chairing this morning's session, let me now introduce him.