

Introductory Remarks

John Stone

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Ladies and gentlemen, it is a great pleasure to welcome you all to this, the fifth major Conference of The Samuel Griffith Society, and particularly to do so in Sydney.

Last night we were privileged to hear a sparkling address to our opening Dinner from Peter Coleman – a man of whom it could be justly said, I think, that he has given a great deal of his life to the pursuit of ideas in the cause of freedom. To me, he struck precisely the right note when, towards the end of his remarks, he recalled his own earlier experience with so-called "States' rights" issues over 20 years ago as a member of the Askin Government in this State.

Before I comment further on Peter Coleman's paper, however, I should note (and I know that Mr Coleman will not mind me doing so) that, in line with our practice at our second and third Conferences (and our intentions, which for good reasons could not be achieved, at our fourth), we might have hoped for our Dinner last night to be addressed by the Premier of New South Wales. However, when we fixed the dates for this Conference last December, we noted the close coincidence with them of another notable event – the general election in New South Wales, which took place a week ago today. In the light of that timing, the Board was forced to acknowledge that even the privilege of addressing a Dinner of this Society might not be sufficient to induce either Mr John Fahey or Mr Bob Carr to accept an invitation to do so. There was also, of course, the little matter of to which of them such an invitation should be extended.

The voters of New South Wales having now resolved that latter point, it remains only for me to say that, in more usual circumstances, we should certainly have been keen to ask Mr Carr to address us. I also personally believe that, other obligations permitting, he would have been glad to do so. I hope there may yet be some future occasion for us to test the accuracy of my prophecy in that regard.

Let me now return to Peter Coleman's invigorating address to us last night, and in doing so remind you that this is our first Conference in the State of New South Wales.

New South Wales has not, I think, been in the vanguard of those promoting the federalist cause in Australia over the years. Even at the time of federation, there was a significant element of opinion in the then Colony that Australia would be better as a unitary state (centred, of course, on New South Wales) than as a federation of six States; and although, mercifully, that view did not prevail, it was sufficiently strong to require a second referendum (the first having failed to obtain the required majority) before this State agreed to federation.

As someone remarked to me recently, one of the reasons why it is hard to interest people in New South Wales in a federalist view of Australia is because, at heart, so many of them actually regard New South Wales and Australia as being (more or less) one and the same thing.

That was why, last night, I was so glad to hear Peter Coleman (as a long-time resident of New South Wales) take up the view which I (as a Western Australian, although a long-time non-resident there) have come to believe lies more and more, these days, at the heart of the argument for federalism – the cause to which, essentially, this Society is dedicated.

I refer to the great virtue which federalism has of dividing power, and serving thereby as a very important bulwark against oppression – including the kind of cultural oppression to which Peter Coleman was directing the earlier portion of his remarks last night.

It is precisely because federation does offer greater opportunities for Diversity that it renders attempts from a centralist Canberra to impose Conformity so much more difficult. Peter Coleman's Orwellian tag, "Diversity is Conformity", simply becomes that much harder to enforce.

Our President, Sir Harry Gibbs, made much the same point to us, in his own limpid prose, when he spoke at our second Conference about the division of power, which a federation naturally provides, as being one of our most treasured defences against the potential oppression of centralised authority:

"There is no more effective way to curb abuses of political power than to divide it..... A federal system cannot guarantee freedom and tolerance, but it can help to protect them".

One of the ways in which the power of centralised authority in Canberra has grown over the years, and particularly during the past 15 years or so, is via the High Court's increasingly permissive interpretation of s.51(xxix), the external affairs power. Accordingly, as you know, in organising our Conference on this occasion we have sought to focus discussion upon a specific proposal for amendment of that provision. Professor Winterton and Professor Coper will, in effect, have the opportunity of criticising the specific amendment (the "Howard amendment") to be put forward shortly by Dr Colin Howard, and thereafter we shall have some general discussion on all three papers with a view to seeing where the balance of that argument lies.

Later today we shall have what I also regard as an extremely important paper on s.90 of the Constitution (the excise power). To quote, again, Sir Harry Gibbs on that topic during the same address from which I quoted earlier:

"Section 90 is an impediment to the rational division of financial powers between the Commonwealth and the States".

This evening, Sir David Smith will honour us with his presence and, in speaking to us about the 1975 dismissal of the Whitlam government, will provide for the annals of the Society a paper which, from his unparalleled vantage point at the time, will "set the record straight" regarding those tumultuous events.

Tomorrow we shall be further honoured by a paper from no less a figure (and incidentally one who played some part in those 1975 events) than Sir Garfield Barwick – our President's predecessor as Chief Justice of the High Court of Australia. Sir Garfield's paper will be read on his behalf by Sir Harry Gibbs, but I understand that he intends to be present in person to answer any questions upon it. We shall look forward to receiving him.

Meanwhile, we shall now proceed to our first bracket of papers this morning which, as noted earlier, relate to the external affairs power, and I shall accordingly hand over to the Chairman of that session, Mr Ray Evans, who will introduce our first speaker, Dr Colin Howard.