

Appendix III

Address Launching *Upholding The Australian Constitution*, Volume 6

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Ladies and Gentlemen, it is a privilege to speak to you and to launch Volume Six - on the day that the First Howard Ministry is announced. Notwithstanding some rash talk during the campaign about the possible exercise of the notorious foreign affairs power, I am confident that it will be much more conscious of constitutional propriety than its predecessors.

It was the misuse of the foreign affairs power, in the proposed Privacy Legislation to over-rule the Tasmanian law regarding sodomy, which first brought the work of The Samuel Griffith Society to my attention. The Privacy Legislation so infuriated me that I wrote a series of columns about it for *The Australian* newspaper, which in turn led to John Howard asking me to write some speeches for him. But let me go back for a moment to set the scene - to August, 1994.

I was having a conversation with Tony Abbott. As his editor, I was goading him about a much-needed, much-discussed book he was going to write - a defence of the Constitution called *The Minimal Monarchy* which most of you will, I trust, have read. Partly to change the subject and partly because, I think, he reckoned it was time I did a little writing of my own on constitutional issues, he asked me what I thought the Liberal Party should do in response to Lavarch's Privacy Bill. "Were the rights of gay Tasmanians seriously infringed by the criminal sanctions in the State law?", he asked. "Was the use of the foreign affairs power justifiable?"

The answer to the first question was simple. While criminal sanctions may encourage discriminatory behaviour on the part of private citizens and even the State bureaucracy, the law itself was not enforced. There hadn't been a successful prosecution since just after the Second World War. As well, as the South Australian experience had shown, anti-discrimination laws didn't prevent either private or bureaucratic discrimination. Sometimes they even intensified it, but they drove it underground - made it covert.

The answer to the second question was even simpler. Given that the infringement of rights was peripheral and for the most part a notional problem, there was no justification for using the foreign affairs power whatsoever. Even if the Tasmanian Government had been prosecuting gay men and heterosexual sodomites with a zeal to rival Torquemada's, and had set about renovating Port Arthur to house the multitude of the newly convicted, it would have been none of the Federal Government's business because it was not a matter within its jurisdiction.

Abbott agreed with me wholeheartedly, but pointed out that there were problems with running a line like that. In the era of political correctness, the only person who could get away with saying so was someone involved with gay law reform. I remember the conversation quite clearly because it was my birthday, and I cancelled lunch in order to write the article for *The Australian*. As those of you who know me can testify, and those of you who have noticed my ample form may guess, sacrificing a meal as important as lunch is above and beyond the call of duty, but it had to be done.

Lavarch's gambit was an attempt to divide the Coalition over a matter of high constitutional principle, characterising those of them who wouldn't support his legislation as homophobes and hoping to corral the gay and "gay-friendly" vote for the A.L.P. It was contemptibly cynical, especially when you remember that there were plenty of reform measures affecting homosexual people for which there was a broad bi-partisan support - on questions like superannuation, which involved substantial sums of money. Lavarch, as Attorney-General, preferred rhetorical flim-flam and further debauch of the Constitution, to borrow a line from Gough Whitlam. The reform you have when you're not having real reform.

The problem Tony Abbott alluded to - that only gay people could get away with talking critically about a gay rights measure - is symptomatic of the grip of the new orthodoxy of political correctness (P.C.). I was reminded of it again yesterday, at Writers' Week, listening to earnest young men who no longer allowed themselves the luxury of female fictional characters because they thought it would be presumptuous of them to act as though they could understand the world from a woman's consciousness or point of view - let alone a *black* woman's point of view. These must surely be "the mind-forged manacles of man", and grimmer and more all-encompassing than any orthodoxy that Blake could have observed in eighteenth Century England. Among its other horror attributes, P.C. is a denial of the power of art and the imagination to generalise, to universalise, to speak for us and to us about the issues which most profoundly affect us.

Like fish taking water around them for granted, many political pundits deny that political correctness exists in Australia, or deny that it's a problem. It exists, all right, and it's a problem of the first order, because it subverts our capacity to talk about the world as it actually is. Instead, we are expected to pay lip-service to various left pieties, and pilloried, even reviled, if we do not. Thus, in the name of "honouring our international treaty obligations" - and who could argue with that? - the Commonwealth has abused the foreign affairs power. Like the United Nations, the environment and gay rights are "*unchallengeable greater goods*" which will warrant any undermining of the checks and balances on Federal power. Yet never in our history have Australians been more in need of protection from overweening Big Brother government than in the Keating years. For those of you who are interested in an analysis of political correctness in contemporary Australia, may I commend a book launched on Monday. It's called *Double Take - Six Incorrect Essays*, edited by Peter Coleman and published by Mandarin. Peter Coleman needs no introduction to members of The Samuel Griffith Society, I'm sure, because he is a distinguished contributor to its Proceedings. The essayists are Frank Moorhouse, Les Murray, David Williamson, Jamie Grant, Beatrice Faust and me, and - even if I say so myself - a grumpier, more sceptical bunch of writers would be hard to find.

In Volume Six, which I am here to launch, we have worthy, indeed distinguished rivals in the sceptical stakes. Three of the twelve are regular contributors to *The Adelaide Review*, and the rest are writers any editor would give his eye teeth - and ready money, what is more - to publish. Many of you will be personally acquainted with Austin Gough, former Professor of History at Adelaide University. His analysis of the Hindmarsh Island affair and the La Trobe case involving sacred, non-human archaeological remains is a fine example of his good sense and great wit. His argument is that Aboriginal culture, and reconstructed versions of it, have acquired the status of the New Official Religion, privileged in ways undreamt of by the Church of England. Having had some involvement in the Hindmarsh Island affair myself, I can recommend it as the most lucid and compelling assessment of the matter which has yet been published.

With equal warmth, let me draw your attention to Ken Minogue's wonderful speech on *Constitutional Mania* - the elevation, as he says, of political issues to the constitutional sphere. It

is the proposal to reform not merely society, but politics itself by not merely passing but *entrenching* laws that will *guarantee* a good society.

Vanity of vanities - the vanity at the heart of political correctness, that reform and entrenchment of the values of the Zeitgeist, the spirit of the age, will guarantee anything apart from what Peter Coleman calls "a soft totalitarianism", let alone a millennial transformation. As Brian Friels, the playwright, put it, trying to define political correctness:

"There is a terrible danger when civilisation becomes enmeshed in a linguistic contour which no longer matches the landscape of fact."

Time and again, reading these papers, I have been reminded of the struggle between those who believe in the perfectibility of Man and the perfectibility of Society, and those men and women, the hard-headed, the sceptical, who want to hang on to the framework of rules which maximise individual freedom. Keating would lump them together - Garfield Barwick, Harry Evans, Colin Howard, SEK Hulme - not to mention Des Moore and Jan Wade - as the straighteners and the punishers, the enemies of vision. In their various ways these essays are all arguments for restraint, deliberation, a sense of proportion. Unlike the window dressing world of Big Picture and the dreams of Big Government, this is fine-grained writing about the world as it is, writing that matches the landscape of fact, writing that demystifies the operations of State Power. Each essay is a blow for liberty.

Adelaide,
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