

Introduction

Eddy Gisonda

The Samuel Griffith Society held its 29th Conference on the weekend of 25 to 27 August 2017, in the city of Perth, Western Australia. The Conference was the best-attended conference in the history of the Society, improving upon the record set only a year earlier.

During the Conference, papers were presented by a Justice of the High Court of Australia, the Chief Justice of Western Australia, a former Prime Minister, a former Treasurer of Western Australia, a Justice of Appeal of the Supreme Court of Western Australia, Senators from New South Wales and Victoria, as well as legal practitioners, academics and journalists.

Federalism was the major theme of the conference. An essential characteristic of the Commonwealth Constitution is that the Australian nation is a federal union under the Crown. At the time of federation, the colonies had rights, powers and privileges, some of which were diminished or surrendered so as to achieve the great end of national unity. The first members of the High Court of Australia, led by Sir Samuel Griffith, were required to interpret the new Constitution as issues in the fledgling nation emerged. They did so in a way that fairly might be said to have reflected the prevailing assumptions, understandings and intentions of the founding generation, as represented by a majority of participants during the Convention debates. The result, among other things, was the doctrine of the immunity of instrumentalities and the reserved powers doctrine.

Since the 1920s, however, and despite a small number of Justices of the High Court of Australia attempting to ebb the flows (and some politicians), various constitutional developments have significantly expanded the powers of the Commonwealth and diminished the powers of the States. That this development is (on one argument) inimical to an original understanding of the Constitution, ought, if nothing else, warrant pause for serious analysis and reflection before a decision is made as to whether the power of the Commonwealth is to be further expanded or should, instead, be confined to areas that really do require action by the central government and cannot be done equally well by the individual States themselves.

It is for this reason that the founders of the Society, who were well aware of these matters, might be said to have included as one of the purposes of the Society, the encouragement and promotion of the widest possible debate on constitutional issues, as well as the health of our political and legal institutions more generally, with careful emphasis given to defending the federalist virtues of the Constitution. The proceedings of the 29th Conference were designed to contribute to the already substantial corpus of the Society on this topic.

The Conference marked the 25th anniversary of the founding of the Society and it is as well to mention two speakers who participated. The first was the Honourable Nicholas Hasluck, QC, AM, a former Justice of the Supreme Court of Western Australia, as well as an accomplished novelist and poet. He is also the son of the Right Honourable Sir Paul Hasluck, KG, GCMG, GCVO, the 17th Governor-General of Australia. Mr Hasluck still has in his possession a copy of the volume recording the proceedings of the Society's inaugural Conference held at Hilton-on-the-Park in Melbourne, 24 to 26 July 1992, which was inscribed for Sir Paul by John Stone on 25 November 1992. The inscribed gift could not be presented in person

because Sir Paul was in hospital. Hence, on Sir Paul's behalf, his son delivered the address that he had prepared to launch the inaugural volume at a dinner convened by the Society at the Langley Novotel Hotel in Perth on 25 November 1992. This turned out to be Sir Paul's last address; he died a few weeks later on 9 January 1993. The address was published in the March 1993 issue of *Quadrant* under the title, "Reflections on Australia's Constitution," and later in Volume 3 of *Upholding the Australian Constitution*.

In these circumstances, I invited Mr Hasluck to deliver a special address marking the 25th anniversary of the Society. His erudite address was a masterful display of scholarship and language. A more fitting tribute to the achievements of the Society would not have been possible.

The second was John Stone. No anniversary of the Society could have been celebrated without hearing him speak. The contribution of Mr Stone to the Society, as well as his wife, Nancy, can only be understated. Indeed, that proposition itself involves understatement. As the Honourable Dyson Heydon, AC, said of the Stones the last time the Society was in Perth: "They have made collectively one of the greatest contributions to Australian public life in their time – or any time."

The success of the 2017 Conference was due to the work of many generous and dedicated people. They included the speakers, many of whom travelled the full distance of our vast land to speak, the chairs of the various sessions, the Honourable Ian Callinan, AC, and the other members of the Board of the Society, as well as John Roskam, Ron Manners, Jeff Phillips, SC, Daniel White, and Sharni Cutajar.

In attendance at the Conference were a number of Mannkal Foundation Scholars: Delaney Bruce, Aditi Chaturvedi, Julian Coleman, Coraline De Zilwa, Michaela Gartz, Julian Hasleby, Mitchell Hasleby, James Locke, Christopher

MacCarthy, Kombo Mashumba, Benjamin McDonald, John McMahon, Elizabeth Powley, Sophia Redgment, Jethro Schoeman, Joshua Slattery, Ian Tan, Nick Todd, Herman Toh, Emma Watson, Laura Watson, Kyle Williams. There also were a number of Sir Charles Court Scholars in attendace: Sarah Cavanough, Michael Heydon, Rachel Hollick, Jacob Kersprien, Prashan Kukanesan, Rebecca Lawrence, Ben Martin, Liam Staltari, Jessica Wright. As well, the two Sir Samuel Griffith Society Scholars were Bianca Cobby and Daniel Earl.

The Sir Samuel Griffith essay competition in 2017 was won by Edward Fowler, an economics student from Canberra. The question for entrants was: “Would Australia benefit from a ‘US style’ confirmation process for appointments to the High Court of Australia?” The quality of the essays was very high.

Once again, Stuart Wood, QC, the secretary of the Society, and his executive assistant, Shannon Lyon, worked tirelessly on behalf of the Society all year. Mr Wood is always thanking others, but that should not allow us to lose sight of the fact that he does so much for the Society, simply because he wants others to learn more about the Constitution, contribute to public debate, and make valuable friendships along the way. Ms Lyon works at least a day a week on the Society and, in the lead up to the Conference, more like full time, working as late as midnight in the final days. She is responsible for the highly efficient organisation of the Society. She engages with everyone in a warm and concerned way, ensuring that they are getting everything out of the Society that they want. The Society’s members owe Mr Wood and Ms Lyon an enormous deal.

The papers in this volume of *Upholding the Australian Constitution* have been assembled, edited and prepared for publication by J. R. Nethercote.