AUSTRALIA UNLIMITED

Volume 1

A TOAST TO AUSTRALIA

by Sir David Smith

A speech delivered at the Australia Day Luncheon held in Melbourne on 25th January 1991.

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MYTHS AND LEGENDS – THE STUFF OF HISTORY (or 1975 Revisited)

by Sir David Smith

The Canberra & District Historical Society's Fourth Nan Phillips Memorial Lecture Given at Parliament House, Canberra on 17th October 1991

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GRAND VISION FOR AUSTRALIANS

by V. J. Bridger

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INTRODUCTION

The articles contained in this book carry a suggestion of hope and excitement, a prospect for a bright future based on a concept of reality and truth as well as a recognition of a developed culture, and the potential to expand this even further.

The first of the three articles, "A Toast to Australia", speaks for itself and provides, to as wide an audience as possible, the message of our origin (irrespective of changes which may have occurred), our heritage and our constitutional background, and, as a result, our position as one of the oldest democratic nations in the world. It is this type of article which should instill in every true Australian a feeling of patriotism and a desire to throw off the shackles of apathy and complacency and become more knowledgable, and thus more effective, in remaining Australian, true to our heritage and traditions and willing to express themselves in an effort to preserve our culture. This does not mean rejection or non-acceptance of new ideas, but rather ensuring that they do not engulf and change our culture into something entirely different.

Many years ago, returning from Europe and flying from Singapore, the cabin steward touched me on the shoulder and said there was a gentleman sitting at the rear who had asked if I would join him for a drink. On going back to see who it was I found he was the father of a friend of my wife and myself. He was returning from a trip to his homeland, Denmark, and as I sat down beside him we both noticed that we had just crossed the coast of the mainland. The scene below was rather desolate, and at that moment he said, in his broken English, "What a god-forsaken piece of country", and with that he raised his glass and said, "Here's to home, it is good to be back". For those who have never experienced that feeling, they will never know what it is to be an Australian. Obviously, from the tenor of his article, Sir David Smith does know.

The second article by Sir David Smith provides us with one of those rare insights into the political and government art of deception, combined with the power of the press through misleading advice and misleading use of language.

For those who are concerned with the maintenance of our Constitution, with its checks and balances, and who may see the

necessity for strengthening it even further to ensure that the people have the final say, the history contained in this article should prove useful.

There is growing evidence that the populace is distrusting its politicians more and more, and this enlightened article, although probably not intending to do so, has, through its truthful exposé, strengthened the argument for tighter Constitutional control by the people.

Legal arguments, which were plentiful at the time, and since, and probably in some quarters in the future, are not the province of the man in the street. How could ordinary voters decide on the pros and cons of the dismissal when, in most cases, they have never read the Constitution and at the same time were completely in the dark as to the true situation. In addition, with short memories, relied on by politicians, or in ignorance of previous political connivances to gain power by denying supply, the people were not in a position to make a legal judgement. However, given the right to make a decision, the people did decide, thereby exerting some influence on subsequent events. Whether or not it was the right or wrong decision is inconsequential - they were given the right under the Constitution.

The third article is an amended version of an article which appeared in The Social Crediter from September 1990 to February 1991. This article deals with the vision of particular political idealists and their desire to bring about changes to the Constitution to usher in the next century.

The agenda has been set to cover ten years, during which period it is expected that there will be increasing pressures, one-sided debates (vis a vis politicians), recurring attacks on our Constitution, our heritage, our traditions, our laws, our flag and much else. The name of the game will be, as always, to provide the government with more power.

The debate on becoming a Republic will no doubt increase with much of the same ingredients as referred to in the article "Myths and Legends", by Sir David Smith. Whether or not Australia becomes a Republic is not the question. The many questions are: will the people have the correct and full information to make an informed decision? Will the people be given the right to initiate referenda? Will the people voting be Australian citizens? Will those

people voting be able to understand the English language? Will all sides have equal opportunity to put their case? Will the finer details of the consequences of such a change be spelt out, e.g. how will the Head of State be chosen? Will such a position depend upon money, as in the United States of America?

This article raises the question of whose vision will be available to the people, those of a political ideology, whatever flavour, or that as determined by the collective will of the people? It highlights the commencement of this debate and concludes with a constructive approach as to how it may be resolved.

The idea of Citizen Initiative and Referendum is not new and is one item on the 'Agenda for the Decade' of the Constitutional Centenary Conference which met in April 1991, and which listed twelve "key issues to be pursued over the course of this constitutional decade". A few of those agenda items are listed, including C.I.R.. They include:

"1. The Head of State. Provisions should be made, through the constitutional review process, *to define the powers of* (my emphasis) and to consider the appropriate method of selection of, the Head of State.

"7. Voter or State Initiative for Referenda. There was general support amongst participants for the idea that there should be additional ways of initiating constitutional referenda under Section 128 of the Constitution; for example, by a specified proportion of electors, or by a specified majority of State Parliaments".

Notice the use of the word '*or*'.

One may well wonder which is the most important - those proposing the changes, the Head of State, the Federal Government, the Houses of Parliament, or the people of this nation.

V. J. Bridger.
May, 1992.

A TOAST TO AUSTRALIA
by
Sir David Smith

Sir David Smith retired recently after many years' service as Official Secretary to the Governors-General. This is a slightly revised version of a speech delivered at the Australia Day Luncheon held in Melbourne on 25th January 1991.

I propose to take two themes - our Australian system of Government and our Australian way of life - and say something about each of them. Though I make no claim to be an expert on either, I believe I have a degree of special knowledge about each, and I propose to disclose to you the basis of this belief in each case.

As for my qualifications to speak about our system of government, I retired recently after 37 years in the Commonwealth Public Service. I spent the last 32 of those years working in what I would describe as the machinery of government. Those 32 years began as Principal Private Secretary to a Minister in two Menzies Governments, and as Official Secretary to five Governors-General, while the nine years in between were spent working directly for Governors-General, Prime Ministers, Ministers, and the Permanent Heads of the Department of the Interior and the Prime Minister's Department, though not, I am happy to say, all at the one time. My time in the Prime Minister's Department included a period as the head of the Government Branch in the Parliamentary and Government Division, and as Secretary to the Federal Executive Council.

Having thus served our system of government over almost my entire working life, I proudly proclaim it, with all its weaknesses, its faults and its defects, as the best system of government in the world. And, despite our current economic problems, and the undoubted hardships which many Australians are enduring at the present time, we have produced a society which is one of the most comfortable and safest in which to live and to work and raise one's children. The many thousands of migrants who queue up to come to this country are ample testimony.

When he spoke here just two years ago, Sir Ninian Stephen was trying to disabuse us of the popular conception that Australia is a young nation, with all the excuses that might provide us for national inexperience, or for taking our national responsibilities rather more lightly, or for excusing our national failings rather more readily, than we might otherwise feel able to do. He went on to say that only Britain, the United States of America, Canada, Switzerland and Sweden could look back on a period as long or longer of democratic rule, uninterrupted by dictatorship of the left or right, or by foreign conquest and occupation, as could Australians. Sir Ninian concluded by reminding us that even today, democracy, as we have so long known and understood and enjoyed it, is a relative rarity among the nations or the world.

It is interesting to observe that, of the six oldest democratic nations he listed, four (including the United States) were British or of British origin, and four (including Sweden) were monarchies.

Well, to my definition of our system of government, Australia is first of all a democratic country, which means that the people are involved in the processes of government through elected representatives. The dictionary defines a democratic state as one which tolerates minority views, and we certainly do that. We have a parliamentary system of government, which means that our laws are made by a legislative assembly to which we have elected our representatives. We have a responsible system of government, which means that the Government and its Ministers are answerable in Parliament - responsible to the Parliament - for their actions, and hold office, and may continue to govern, between elections, only while they continue to have the confidence of the Parliament. We have a Westminster-style system of government, based on the British model, to which our founding fathers added, from the United States of America, a federal element involving a division of functions and responsibilities between the National and the State governments, and an upper house, the Senate, the composition and the electoral features of which were also modelled on those of the United States of America. We have a constitutional system of government, which means that we have drawn up a set of fundamental principles by which the country is governed, and we have committed these fundamental principles to writing, so that anyone who wishes may read our Constitution. It is a commentary on our national

complacency about such matters that few Australians even know that we have a written Constitution and even fewer have ever seen a copy, let alone read it. I sometimes wonder how many people, in so many countries around the world, have given their lives, and still continue to do so, for the things we take for granted.

The final component in our system of government, and the one which holds all the other components together, is the Monarchy: we have a monarchical system of government, in which the powers and functions of the Head of State reside in an hereditary Monarch who rules only by the consent of those who are ruled over, and who acts on the advice of their elected representatives. In our particular case, as with the sixteen other monarchical countries within the Commonwealth, the absent monarch is represented by a Governor-General who performs all the duties of the Head of State.

THE MONARCHY has provided strength and stability to our system of government, and a sense of unity to our nation. What is more, the periodic opinion polls tell us that a majority of Australians still want to retain the monarch. To my mind, the sad part in all of this is that the majority of Australians look at the monarchy, and at the Sovereign in particular, through the eyes of the women's magazines and the coverage given from time to time by the tabloid newspapers to the activities of members of the Royal Family.

Of course, the personal qualities, as we perceive them, of the Sovereign and of the Heir to the Throne are important. If we are to respect them, it is nice if we can also admire them, but that is not the essential point. The essence under our system of government as a constitutional monarchy is that The Queen, and the Governor-General who represents her, have certain duties, powers and prerogatives, and these are set out in out Constitution and in legislation passed by the Commonwealth Parliament.

I recall, in the years leading to the 1988 Bicentenary, the clamour that we should celebrate two hundred years of white settlement by scrapping the Constitution, changing the flag, and starting again. There was no attempt at discussion or debate - the fact that they were old, and British in origin, was considered good and sufficient reason to discard them. All we needed to solve our (unspecified) problems was to become a Republic and, apparently, any old Republic would do: there was no analysis of the various

forms of republican government already in existence around the world, and no pointer to which one we should seek to emulate. The important point, apparently, was that we should celebrate our achievements by pretending that they didn't happen.

When I first set out to prepare this speech I wrote the following sentence: "My one fear is that, with the approach of the centenary of federation in the year two thousand and one, the same mindless anti-traditional, anti-British rhetoric will start up again, and the magic date will be good and sufficient reason to change the Constitution and change the flag". By the time the first draft had been typed, at least one feature writer and one journalist had appeared in print in daily newspapers saying that 1st January 2001 would be a good date on which to declare Australia a Republic. Again, no discussion, no debate, just a date, and absolutely no recognition that republics come in all shapes and colours and sizes. What really astounds me is the logic behind the notion not that our system of government has to be changed, but changed in ten years' time. If our Constitution is the cause of our problems then we should have been looking at it long ago: if it is okay for the next ten years then there can't be too much wrong with it. We are, after all, as Sir Ninian Stephen reminded the nation in his last Australia Day address two years ago, "one of the oldest continuous democracies in the world, with more than 130 unbroken years of democratic government behind us, and with a much longer experience of making decisions for ourselves, by democratic means, than all but a handful of the almost 200 nations of today's world". Hardly a prescription for change, is it?

So far as the flag is concerned, it is a constant reminder of our origins as a nation, and of our history. Not only did we get our first white settlers from Britain: we also acquired from them what Prime Minister Bob Hawke described last year in a speech to the National Press Club as our "fundamental principles of parliamentary democracy, freedom of the individual and the rule of law". We also received from Britain the great heritage of her laws, her customs, her language, her literature and philosophy - in short, her culture, but more of that later.

As for our Constitution it may need amending, it may need some fine tuning, but it would be madness to discard it or change it in any radical way. Fortunately, the Commonwealth Government

and some of our universities have recognised that. In that same speech to the National Press Club, on 19th July 1990, the Prime Minister said that "the time had come to form a closer partnership between our three levels of government - Commonwealth, State and Local". The first task, he said, was "to move by sensible, practicable steps to get better co-operation within the framework of the Federal Constitution as it stands". As for the second task, this was defined by the Prime Minister as "to apply the spirit of national co-operation in a new approach to reform of the Constitution itself". I believe that, in this second task, the views of those governed, and not just those who do the governing, should be sought and taken into account.

There is some hope that this might happen; last December Melbourne University ran a two-day seminar which looked at both constitutional change and the alteration to governmental arrangements in relation to the environment. Later this year a convention jointly organised by Professor Cheryl Saunders, from Melbourne University's Centre for Comparative Constitutional Studies, and Professor James Crawford, Dean of Sydney University's Law School, will review the whole constitutional system. According to a press report by David Solomon in *The Australian,* the two Professors have said that the aim of the debate should be to identify and deal with aspects of the constitutional system which are unsatisfactory now, or which are likely to cause significant problems in the foreseeable future, and the debate should not be confined to the text of the Constitution but should also include its operation in practice.

When they get to those sections of the Constitution which deal with The Queen and the Governor-General I hope they bear the last point particularly in mind, and look carefully at their operation in practice. If they do, they will see that the monarchical system of government has served, and continues to serve, us well. I know it has been said that the system whereby The Queen appoints the Governor-General on the advice of the Prime Minister of the day is unfair and undemocratic. But is it? What is the alternative? An elected Governor-General or, rather, an elected President, is the reply. Well, let us think about that for a moment. We have had some pretty distinguished Australians in the office of Governor-General. Whether we called it Governor-General or

President, how many of them would have stood for election if that was the only way to attain office? Our present system provides for an elected Head of Government, with all the powers and responsibilities of decision making, and an appointed *de facto* Head of State, who does not have to offer himself or herself as a candidate, who does not have to defeat other contenders to attain or retain the office, and who is thus better able to represent the nation at a level above party or partisan politics, as a symbol of national unity.

If I were Prime Minister of this great country, with all the awesome responsibilities of that high office, the last thing I would want breathing down my neck would be an elected Governor-General or President claiming to represent his or her own constituency. And that is not such a fanciful notion. In my travels overseas on duty with our appointed Governor-General, I was present at a gathering of a number of Governors-General, both appointed and elected. One of the latter was heard to propose, quite seriously, that, as their respective Prime Ministers gathered together periodically for important multilateral conferences of one kind or another, it was time they, too, should come together in a similar fashion, for they also had important constituencies to represent. Fortunately, our appointed Governor-General was able to say that such a proposal could not concern him, but if I were Prime Minister it would concern me.

So, as the debate hots up in the approach to the centenary of Federation, and as the politicians and the lawyers and the academics look to see how we might improve our system of government and our constitutional framework, I hope that those of us who value our particular brand of constitutional monarchy, above all the various forms of republican government that we see around us, will speak up, for we are still in the majority in this country.

One final point before I leave my first theme and move on to my second. You have all heard the anti-British argument being trotted out to argue for a casting-off of the British Monarchy, and a severing of all legal ties with the British Government and with Britain. Let me assure you that Australia has long since severed all legal and constitutional ties with Britain and with its Government. We are an independent nation and our formal links with Britain are today no different from our formal links with any other country with

which we maintain friendly relations.

Our monarchy is not a British one, it is an Australian one, and this is so by virtue of legislation passed by the Australian Parliament - the *Royal Style and Titles Act* of 1953. And notice the date: though popular mythology has it that it was Prime Minister Whitlam who introduced the legislation to make the Monarch Queen of Australia in 1973, it was actually Prime Minister Menzies who did this twenty years earlier, in 1953. As Queen of Australia, Her Majesty has a distinct and separate role from those which she has as Queen of the United Kingdom, or as Queen of Canada, or New Zealand, or Papua New Guinea, or any of the other monarchical countries of the Commonwealth. This separation of powers and functions, this separation of identities, is not well understood. Even such a distinguished and experienced journalist as Padraic McGuinness, in articles in *The Australian* last November and December about Britain's membership of the European Community, has assumed, quite wrongly, that any consequences of that membership for the British Monarchy would also apply to the Australian Monarchy. They would not! Our Monarchy is an Australian one, and no case for its abolition can be based on the fact that we share the same Sovereign with Britain or with a number of other, equally sovereign and equally independent nations.

I now move to the second matter which I would like you to consider this Australia Day. I described it earlier as our Australian way of life; I should have said our Australian culture, but I was fearful that someone might want to insert the word 'multi'. But now that I have said it, let me go on to add that the so-called issue of multiculturalism has been misused by all sides of politics, for the most cynical of vote-catching reasons. There is an Australian culture, contrary to what some would have us believe, and, like our Australian system of government, it must be nurtured and defended. It is British in origin and it has been added to, and enriched, by successive generations of immigrants. We must continue to welcome and encourage such enrichment, but we must not forget or apologise for the basic culture.

I said when I began that I would set out my qualifications to speak on each of my two themes. Let me now stake my claim on the second one, but before I do, may I read you a sentence from Professor Manning Clark's second volume of his autobiography *The*

Quest for Grace in which he wrote about us, about all Australians. "We were a society of immigrants: we were all either immigrants or the descendants of immigrants - including the Aborigines".

I am a first-generation Australian, born here in Melbourne. My parents were non-English-speaking migrants from Poland. Just for the record, my wife June is also a first-generation Australian, born here in Melbourne. Her parents were English-speaking migrants from Britain. Neither set of parents had any difficulty in becoming loyal and patriotic Australians. My father arrived as a young man in 1932, on his own: the parents and the brothers and sisters who stayed behind in Europe subsequently perished in the Holocaust. My mother had arrived in 1929, in her late teens, with her brothers and sisters and her mother. They, in turn, had been preceded the previous year by their husband and father - my maternal grandfather - who, in the late 1920's, had seen the rise of Nazism in Germany and feared it would soon spread across Europe. So he chose Australia as a safe haven for his family, came out first to make sure he was right, then sent for them. Most of the family they left behind also perished, except for two cousins who survived the horrors of the concentration camps and came to Australia soon after the end of the Second World War.

To complete the personal side of the story, my parents married here in Melbourne; I was born here; I went to school and started university in Melbourne; June and I were married in Melbourne; and two of our three sons were born in Melbourne.

My purpose in telling you this brief history is to establish the fact that I know, from personal experience, that the immigrants who came to this country prior to the Second World War, and immediately after it, had no difficulty in accepting the way of life - the culture - which they found here. They brought with them their own languages and customs and traditions, and some they chose to hold on to. The same had been done by the waves of immigrants who had preceded them, before and after the First World War, during the gold rushes, and before that, too. But they all became Australians and adopted Australian customs, at the same time making their own contributions to what they found here, so that the resultant mixture became all the richer.

But none of them lost sight of the fact that they had chosen

to come here, because for them, life in their own country had become, or was likely to become, intolerable, and this country offered them something better.

The first thing that needs to be said about that, if I might hark back to my first theme for just a moment, is that, for one reason or another, the system of government from which they fled did not offer to them, as citizens, the fundamental freedoms and protections which our system of government offers to its citizens. That being the case, I shall never see the sense in the argument that the presence of non-British migrants in this country should be used as an excuse to do away with anything and everything that is of British origin. More to the point, virtually all of our immigrants of necessity, as distinct from our immigrants of choice, have fled from countries governed by one version or another of the republican form of government. Is it really seriously suggested that we should therefore become another version of what they left behind? Maybe, just maybe, the reason they chose to come here is because we are what we are, and not because of what we might become.

Writing in 1935, P. R. Stephenson, in his book *The Foundations of Culture in Australia - An Essay Towards National Self-respect,* had this to say about culture in Australia: "We inherit all that Britain has inherited, and from that point we go on - to what?" And then he answered his own rhetorical question in this way: "As the culture of every nation is an intellectual and emotional expression of the *genius loci* (the spirit of the place), our Australian culture will diverge . . . from that of Britain. . . . [a] gum tree is not a branch of an oak; our Australian culture will evolve distinctively". Stephenson then went on to say that, when people migrate and take their culture with them to a new place, the culture becomes modified: the spirit of the place gives it a new distinctiveness. Stephenson was right, for we have adapted and moulded our heritage and our culture to produce Australian versions. Once upon a time new arrivals were asked to accept what they found here, adopt it as their own, and then, if they wished to, add something to it. They did it, and they did it gladly. My family did, 60 and more years ago, just as generations before and since have done.

BUT WHAT HAPPENS NOW? Somewhere along the line we have turned New Australians into ethnic Australians. Official government publications tell them that "Multicultural policy based

on the belief that all Australians - Aboriginal Australians, descendants of the First Fleeters, recent arrivals - have the right to develop their cultures and languages". We have become a great country for allowing everyone to claim their rights, haven't we? But what do we do about making everyone aware of their duties, their obligations, their responsibilities? Once newcomers were expected to learn and understand our language, our culture, and participate in our political processes and many did, and still do. But we also see, under the guise of multiculturalism, foreign political hatreds being fought out in Australia.

As well as my statutory appointments as Official Secretary to the Governor-General, I also held a separate appointment, under Royal Letters Patent, as Secretary of the Order of Australia. With the publication of the Order of Australia honours lists each Australia day and Queen's Birthday, I soon came to expect a barrage of criticism from so-called representatives of the ethnic communities, that foreign born Australians were being discriminated against in the award of honours. Such claims were, of course, patently untrue, and regularly my staff and I would produce the statistics which showed the absurdity of such claims. On the last occasion on which I was involved in such an exercise, I decided that it was time we provided a much more detailed response to the criticisms. A brief reference to that exercise may illustrate the point I am trying to make.

The critics had gone through the published list and identified, by reference to their names only, seventeen foreign born people whose citations were for service to multicultural activities or to a particular ethnic group. This, it was claimed, was evidence of discrimination against those who were foreign born. There were, in fact, twenty and not seventeen recipients in this category. Much more important, however, there were another 43 foreign born recipients, who happened not to have foreign sounding names, whatever that means, who had received awards for service to Australia and to the Australian community generally, and not just for service to a particular migrant group. Furthermore, as many of these people had operated at the national and even international level, they had received awards at the higher levels of the Order of Australia. As I wrote at the time, these people had exemplified the objectives of true multiculturalism and had contributed to the social blending of the wider community by giving service outside the confines of

their own particular ethnic community. They were thus contributing to the well-being of all Australians, and were doing so in open competition, so to speak, with the native-born. That, I thought then and still do, was the real test of the maturity of Australian society and of the way the foreign born were encouraged to take their place within it, as equal citizens with the native-born.

Professor Donald Horne has described Australia as the most tolerant country in the world, and I agree with him. If I may again personalise this account for just a moment, so did my late father. As he lay dying in a hospital in Canberra just five years ago, I heard him several times quite literally thank his God that He had brought him to this country.

In our last few conversations, when we both knew they would be our last, he repeatedly expressed his gratitude for the peace and contentment he had known here for the last 55 years of his life. Just as repeatedly, he expressed his amazement that, having stepped ashore at Port Melbourne at the age of 24, with ten shillings in his pocket and only a few words of English he had learned on the ship coming over, 25 years later he saw his son, a first generation Australian, appointed Private Secretary to a Government Minister, and 40 years after his arrival he saw his son appointed Official Secretary to the Governor-General, the *de facto* Head of State.

You see, my father knew that, had I been born in his country, where I could have traced my ancestry back for many generations, I could not have aspired to such a career and to such appointments - I would have been of the wrong religion to have been allowed to serve my country in such a way. Indeed, if you and I were to migrate today to any of the countries from which our immigrants come, in most of them we would be denied all kinds of rights and privileges which this country confers, and rightly so, on all who come here. We would face discrimination on the grounds of our race, or our religion, or the colour of our skin, or simply that we were foreign-born, so we certainly have no reason to be apologetic about what the immigrant finds in this country.

So Donald Horne was right - Australia is the most tolerant country in the world. It is our own particular set of values which has made us so; which has made this country so attractive to migrants in the first place. We have no business inventing a word

like 'multiculturalism' and then using it to divide our society into ethnic groups, to declare ourselves a cultural BYO - bring and retain your own culture because we haven't one to offer you. To be sure, there are some Australians - there always will be, I guess - who are intolerant, bigoted, unfriendly towards people who are different. But most of us are not, and, importantly, our institutions of government are not. There is a distinctly Australian culture supported by a distinctly Australian system of government, and we have the right, and the duty, to be proud of both.

Well, I have spoken at length, probably for too long, but the subject "Australia" was irresistible. We must all learn to appreciate what we have, and to speak up when others want to make changes to our collective disadvantage. We must stop taking the things we value for granted, because if we don't stand up for them, the next time we look they may not be there.

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MYTHS AND LEGENDS – THE STUFF OF HISTORY (or 1975 Revisited)

by

Sir David Smith

The Canberra & District Historical Society's Fourth Nan Phillips Memorial Lecture Given by Sir David Smith at Parliament House, Canberra on 17th October 1991

(Numbers in square brackets refer to notes starting on page 36)

I did not know Nan Phillips, but I have friends and colleagues, at Government House and at the Australian National University, who did, and through talking to them I have come to know a little of what she did for the Canberra & District Historical Society, and what she came to mean to its members. So I feel greatly honoured to have been asked to give the fourth of the lectures which the Society has established and named in her memory.

For more than 21 years Nan Phillips gave great encouragement to the Society, for it was her vision that it should take its place among the older historical societies of the States. Her interest and support encouraged early editors of the Society's journal, the *Canberra Historical Journal,* so that today it is a respected publication with a wide circulation. She was also much admired by her *Australian Dictionary of Biography* colleagues for her contributions to that great project [1]. One of her special interests was the development of historical research [2], particularly as it affects the biographer. Another was the history of the national capital [3].

It is therefore in the spirit of Nan Phillips's interests and her efforts that I have chosen my topic for this evening's lecture. Let me immediately enter a caveat, lest the title of my lecture should arouse expectations bound to be unfulfilled. My treatment of my subject will be mainly historical, although I note that the emeritus political correspondent for The Sydney Morning Herald, the distinguished journalist Peter Bowers, wrote immediately after the announcement

of the death of Sir John Kerr, "It is still too early for history's judgement - that needs to be written by men and women who were not alive on that day" [4].

History requires objective detachment and, as I said at the time of Sir John's death, it requires to be written by those "who were not personally affected by the events or their consequences, and who can do as historians down the ages have done, and look objectively and dispassionately at the events and the circumstances - the behaviour, the conditions, the attitudes of all of the participants in that event" [5].

Mind you, not everyone who writes long after an event, and who has available accurate contemporary accounts, will necessarily produce a fair account, for, in addition to careless or inadequate research, we may be dealing with poetic licence or simple error on the one hand, or bias, prejudice or even malice on the other.

Examples of some of these traits may be found in the films *Breaker Morant* and *Gallipoli,* where, despite the existence of accurate contemporary records, historical truth seems to have become a casualty [6]. As Gerard Henderson wrote in *The Sydney Morning Herald* just before Anzac Day this year, "Without doubt, the most powerful and lasting images of Australians at war are depicted in the films . . . " [7]. Yet, as he points out, these images are manifestly incorrect. In the case of Morant, says Henderson, all that would ne necessary to correct the prevailing myth would be to refer to his (Morant's) entry in the *Australian Dictionary of Biography (ADB)* [8] or to Charles Bean's official history of World War I. [9] Similarly, the portrayal of the Battle of the Nek in the film *Gallipoli* bears little resemblance to the account in Bean's war history. Yet in both cases, according to Henderson, "the fiction . . . has effectively supplanted the historical reality". [10]

We do not yet have *ABD* entries for Sir John Kerr, Geogh Whitlam or Malcolm Fraser, and we still await a definitive account of the events of 1975. So what are the prospects of a balanced interpretation by someone not alive on that day, as Peter Bowers has foretold? Most importantly, what primary and secondary sources would such a person refer to?

The most obvious sources are participants or eye-witnesses. Sir John Kerr [11] and Geogh Whitlam [12] have recorded their

accounts, so I shall let them speak for themselves. But what of their contemporaries? How accurate their knowledge? How accurate their memories? How accurate their understanding? On the basis of three examples which I recorded only this year, it would seem that the answer to my three questions is often "Not very". Each example involved an experienced Parliamentarian who had held office as a Labor Government Minister. I shall not mention names, for my purpose is merely to make my point, and not to point the finger.

My first example concerns the former Minister who greeted the recent formation of the Australian Republican Movement with the comment to the effect that, come the Republic, there would be no more Supply crises. He had obviously forgotten that the United States Congress had at first refused to pass President George Bush's Appropriation Bill last year and federal government ground to a halt, and that President Ghulam Ishaq Khan of Pakistan had dismissed Prime Minister Benazir Bhutto, also last year, and had ordered an early election.

My second example concerns a former Minister who wrote, at the time of Sir John Kerr's death, that he couldn't understand why Sir John, in 1975, in insisting on calling an election, hadn't allowed Geogh Whitlam to go into that election as Prime Minister. After many years in Parliament and as a Minister and member of the Federal Executive Council, he still didn't know that a Governor-General requires ministerial advice to dissovle Parliament and to issue writs for an election. That was the whole point and purpose of the 1975 dismissal, yet here was an experienced parliamentarian directly affected by it who had never cottoned on to just why it had happened.

My third example concerns another former Minister who, along with his fellow Ministers, was photographed at Government House, Canberra, in 1973, with The Queen, just after she had presided over a meeting of the Federal Executive Council. The photograph was reproduced, with names underneath, in the Australian Labor Party's centenary history published earlier this year. [13] As I understand what followed, the National Library of Australia was preparing a copy of the photograph recently for a display, when one of the staff noticed an error. The official standing at one end of the back row of Ministers was identified as the Official Secretary to

the Governor-General, but it certainly was not me. It was, in fact, my successor as Secretary to the Federal Executive Council, and the National Library started telephoning to try and identify him. They eventually got on to me, and I was able to tell them who it was, but before that they tried Gough Whitlam. He could tell them that it was not me, but he didn't know who it was. Next they tried one of his Ministers - one with a reputation for a long memory. "Yes", he said, "that's a young David Smith". And then, no doubt to give some verisimilitude to his assertion, he added "I can remember him pushing his way into the photograph". As I have said, it was not me, nor had my colleague pushed himself into the photograph: he watched, as I did, while the Ministers took their places, and then quietly stood at one end of the back row. So much for accurate recall.

Each of these incidents reminds me of an old family adage which is ofter repeated in our household: 'It's not the things you don't know that get you into trouble - it's the things you think you know wot ain't so'.

Well, if future historians can't rely on the memories, or the utterances, of old men, where else do they turn for their basic information? If there is one thing which my time this year at the Australian National University has taught me, it is the extent to which students and scholars rely on the contemporary media for much of their information - on the newspapers and journals, and on the television and radio transcripts. My experience over 37 years as a public servant working alongside Government and Parliament has taught me that these sources can be as unreliable as old men's memories.

Derek Parker's book, *The Courtesans* [14], about the Parliamentary Press Gallery, should be compulsory reading for all contemporary historians. Parker deals mainly with journalists who write the way they do because of inherent bias and prejudice, and a jaundiced view of their role. But there are also many, sad to say, who write the way they do because they lack the ability to do any better.

The late Philip Graham, former publisher of *Newsweek* and *The Washington Post,* once said that good journalism should aim to be "the first rough draft of history". [15] Sam Lipski, writing in *The*

Bulletin earlier this year, and to whom I am indebted for that quotation, added the comment that "it is not a bad aim and . . . in the aftermath of Sir John Kerr's death, it has some local relevance". [16] He went on to list some of the doyens of the Canberra Press Gallery, all of whom had vivid recollections of the events of 11th November 1975, who had witnessed and reported on what had happened in politics since then, and who had been allowed to grow old in their craft, and he compared them with their uninformed and inaccurate juniors, many of whom are today burned out as reporters or promoted to desk jobs by their mid-30's. [17]

Let me again give some examples from my own experience of what an inexperienced or incompetent journalist can do with the truth. I am regularly described as "the man who announced Gough Whitlam's sacking in 1975". Having put up with the inaccuracy for so many years, I finally decided to take up the issue when, shortly after I had retired late last year, the Australian Broadcasting Corporation used the description in a totally unrelated story about the tabling in Parliament of my final annual report as Official Secretary to the Governor-General. I wrote a polite letter to the A.B.C., pointing out that the description was inaccurate and untrue, as what I had announced in 1975 was not the sacking of a Prime Minister, but the Governor-General's proclamation dissolving both Houses of Parliament.

I received an equally polite reply, conceding only that their description of what I had done verged on over-simplification and did not convey precisely my role in the events of 1975. What was clearly untrue, wrong, false, inaccurate, call it what you will, was considered by the National Broadcaster to be only 'verging on over-simplification' or 'lacking in precision' [18], thus giving new meaning to those words as well. After another letter I received an assurance that the inaccurate description would not be repeated, though the A.B.C.'s parting shot was that its News executives were a little surprised at my view on the wording about which I had complained. So much for truth and accuracy. [19]

But this little game of pitting Gough Whitlam and David Smith against each other sixteen years on, for the sake of a story, is not confined to radio and television.

Earlier this year the chairman of the House of

Representatives Standing Committee on Legal and Constitutional Affairs issued a press release announcing that his committee proposed to conduct "a vigorous review of the efficacy and fairness of the Australian Honours System as part of its inquiry into Equal Opportunity and Equal Status for Australian Women". [20] Both in that press release, and in subsequent contributions to newspapers [21], the chairman went on to prejudge the issues to be examined by his committee and to indicate the conclusions which he expected his committee to reach. As I have had some professional interest in the Australian honours system, as well as still having a citizen's interest in the fair and impartial operation of Parliamentary committees, I wrote letters to the editors in which I suggested that the chairman might have waited for his committee to hear the evidence before he drew his committee's conclusions for it. [22]

At the same time as the chairman announced his committee's inquiry, he announced that the committee would also hold a public seminar on the subject, and in due course I enrolled and paid my seminar fee. One person who agreed to be a keynote speaker at that seminar was Gough Whitlam who, as the initiator of the Australian honours system, still retains a great interest in the way in which the system operates.

Shortly afterwards, one of our daily newspapers ran a comprehansive article on the honours system, the forthcoming seminar, and the Whitlam participation. But the journalist couldn't resist putting a sting in the tail and foreshadowing a Gough Whitlam/David Smith confrontation. My gentle rebuke of the Parliamentary Committee chairman for pre-empting the evidence was described as "a heated response" and "one of the most virulent attacks". My mild-mannered words became an "accusation from Sir David [that] has spurred Gough Whitlam into action". And rounding off the article was the inference that Whitlam would be siding with the chairman against the chairman's "virulent attacker". [23]

The actual event, on the day, proved to be quite different. In his speech to the seminar, not only did Gough Whitlam reject the chairman's original press release, and all of its implications, as I had done earlier, he defended the administration of the Australian honours system throughout the period for which I had had administrative responsibility for it, and, in doing so, quoted, with

acknowledgement and with approval, from a speech which I had made on the subject some two and a half years earlier. [24]

No doubt the journalist had thought she had a good story, on the basis of misleading advice given to her at the time by someone on the staff of the Parliamentary Committee. What surprised me was that, after the event, and having heard Gough Whitlam's speech to the seminar, she would not acknowledge, at least not to me, that the reality had proved to be quite different from what her story had led its readers to expect. What a deadly combination for those who would study past events on the basis of contemporary press reports - misleading advice given to the journalist, coupled with misleading use of language by the journalist.

Well, so much for contemporary examples of flawed journalism. Let me go back now to November 1975 and look at what the future historian might find in the contemporary accounts of those days.

Academics and politicians have devoted much time and effort to documenting and analysing the causes and consequences of our 1975 constitutional troubles. In the first ten years alone, as far as I am aware, at least 15 books and 71 articles were written on the subject, and there may be many more which I have not yet tracked down. This is neither the time nor the place to attempt an analysis either of the events or of the writings which they generated - that task is yet to come. As I do not meet the Peter Bowers' quaification of not being alive on that day, I am disquaified from writing an historical judgement, but there are political and constitutional judgements to be made, and some problems to be tackled. As I have said, much was written in the first ten years, and some of it scholarly, but the problems which sprang from the blocking of supply became too difficult for our politicians to deal with, and new political imperatives emerged to take their place.

As two distinguished constitutional lawyers from the University of Melbourne, Professor Colin Howard and Professor Cheryl Saunders, wrote only two years after the event: "Not one of the public figures espousing the doctrines and tactics which prevailed in 1975 has offered comment on the problems which lie ahead as a result. Still less have their talents been made available to assist in the anticipation and solution of those problems. It has been said

many times already that the losing side in 1975 has remained unduly preoccupied with its grievances ever since. Perhaps so. It can with equal justice be said that the winning side has with similar obsessiveness averted its gaze from the consequences of its own actions, except for an occasional shrill essay in self-justification. Neither attitude assists in any way towards the solution of fundamental problems whose confrontation cannot be postponed indefinitely". [25]

Though much more has been written about the events of 1975 since those words were written in 1977, none of it seems to have been directed at the resulting problems for our system of government or towards their solution. In the meantime, the average Australian, not overly devoted to reading books on politics or learned journals dealing with constitutional law, is given the gospel according to the media.

Our young people choosing to study Australian politics at school or university, and having no memory or personal knowledge of 1975, have fared little better. In the interests of knowledge and understanding, I have been prepared to talk to secondary and tertiary students about 1975, and I have been very concerned to learn of the selective teachings to which they have been subjected in many cases. Their teachers and lecturers, when directing them to primary sources, have often been very selective and have left their students in ignorance of the existence of ideologically inconvenient material.

Underlying the 'convenient' version of events, which is the one that many would best remember, were two principal dogmas – that the Governor-General and the Senate had acted improperly, or illegally, or both. To set the scene for these impressions, everything associated with their actions had to be presented in some evil light.

The campaign began with Malcolm Fraser's early arrival at Government House on that fateful day, before, and not after, Gough Whitlam, as the Governor-General had intended. That was due to a simple error by someone on Fraser's staff, but was presented as the beginning of the Vice-Regal conspiracy.

It was alleged that Fraser was closeted in a room at Government House with the blinds drawn. Not so: he waited with me in a room next to the State Entrance, a room which at that time

was used as a waiting room for visitors who had arrived early, and the blinds were not drawn.

Much was made of an allegation that Fraser's car was hidden round the back, out of sight. It was not. His car dropped him off at the State Entrance, and then drove around to one of three 'front of house' parking areas used by visitors. The driver chose the one which suited him best - the one which gave him the clearest view of the State Entrance, so he could see when to drive forward to pick up his passenger, and also the one which provided the best shade from overhanging trees on a warm November day. Unfortunately, that put the car on the inside curve of that part of the main drive which leads to the Private Entrance.

It is one of the traditional courtesies extended to a Prime Minister at Government House that he comes and goes via the Private Entrance, so called because it is used by the Governor-General and his family, rather than by the State Entrance, which is used by all other callers on the Governor-General. The duty Aide-de-Camp for that day had been told to expect the Prime Minister and the Leader of the Opposition, and their estimated time of arrival, but nothing more. He knew from experience that the Prime Minister's convoy, i.e. the Prime Minister's car and the police security car which follows it, always travelled very fast, even within the grounds of Government House. He could see that Fraser's car, having arrived out of sequence, was now parked where it posed, at best, an inconvenience, and at worst, a serious hazard, to the Prime Minister's car as it swept around the bend.

The Aide-de-Camp used his own judgement, made a decision in the interests of safety, and asked the driver to move his car to the parking area outside the Official Secretary's office, and right next to the State Entrance, but on the other side of it. The car was not hidden around the back, but was in fact even closer to the front of the building and to the State Entrance than it had been. The Aide-de-Camp did not consult either the Governor-General or the Official Secretary, nor did he need to: the three Aides-de-Camp are responsible for the smooth and efficient arrival and departure of all visitors to Government House, and are constantly directing vehicles in the interests of safety and convenience. The first that either the Governor-General or I knew of what had happened to Fraser's car was when we read the press reports next day alleging

some devious conspiracy to conceal it.

It was a measure of the man that Sir John refused me permission then to correct that story. The Aide-de-Camp had acted properly and in good faith, and Sir John would allow nothing to be done or said which suggested otherwise, even by implication.

The next pair of myths grew out of my reading of the Governor-General's proclamation from the steps of Parliament House. First it was alleged that I had come through a back entrance and via the kitchens; next that I had been spirited in through a side entrance. Both cannot be right, and in fact neither is right. I came, as is traditional, by the front entrance. Far from arriving inconspicuously, as if on some furtive mission, I drove up to the front steps in a big, black Government House car, clearly identified as such by the traditional crowns where number plates would normally be. I was met by a Senate officer and escorted into Parliament House via Kings Hall, all in accordance with normal practice and tradition.

The second allegation was that my reading of the proclamation was an unnecessary provocation on the part of the Governor-General. Not true. The practice of reading the Governor-General's proclamation dissolving the House of Representatives, or the House of Representatives and the Senate in the case of a double dissolution, was begun in 1963. When dissolution takes place, and the Governor-General subsequently, and usually on the same day, issues writs for the holding of ensuing elections, it is necessary that the people be aware that the proclamation has been issued and published, that members of the Parliament and its officials know at what time dissolution occurred, and that the order of the events of the day be able to be clearly established.

In 1963 the Attorney-General of the day gave advice that a public reading of the proclamation from the steps of Parliament House by the Governor-General's Official Secretary, in the presence of the Clerks of the Chamber or Chambers being dissolved, would meet all of these requirements, and so the practice was begun. The first public proclamation reading in 1963 was followed by similar public readings in 1966, 1969, 1972 and 1974, before we came to the 1975 reading, and there have so far been seven more since then. My

first reading was in 1974, when Sir Paul Hasluck dissolved both Houses of the Parliament on the advice of Prime Minister Whitlam. In furtherance of the 1975 mythology, what was correct in 1974 was branded incorrect in 1975: that which had become necessary and routine on five occasions over 12 years was suddenly denounced as unnecessary and provocative on the sixth occasion.

So far I have dealt only with minor events which preceded the main game: each was not greatly significant by itself, yet together they helped establish an atmosphere designed to taint the public's perveptions of what was to follow. They suggested an aura of irregularity or impropriety emanating from Government House, which the critics then sought to transfer to the major events of the day.

The original attack, of course, had been on the Senate's refusal to pass the Government's budget. The Government's view was that the Constitution and its associated conventions vested control over the supply of money to the Government in the lower house, and that the actions of the upper house in threatening to block that supply of money were a gross violation of the roles of the respective Houses of the Parliament in relation to the appropriation of moneys. [26]

This view of the respective roles of the Houses of Parliament had not always been the view of those who were now in Government, and particularly of their leaders. Back in 1967, Senator Lionel Murphy, then Leader of the Opposition in the Senate, had this to say about the upper house and money bills: "There is no tradition, as has been suggested, that the Senate will not use its constitutional powers, whenever it considers it necessary or desirable to do so, in the public interest. There are no limitations on the Senate in the use of its constitutional powers except the limits self imposed by discretion and reason. There is no tradition in the Australian Labor Party that we will not oppose in the Senate any tax or money Bill, or what might be described as a financial measure". [27]

In 1970, the then Leader of the Opposition, Gough Whitlam, had this to say: "The Prime Minister's assertion that the rejection of this measure does not affect the Commonwealth has no substance in logic or fact. . . . The Labor Party believes that the crisis which would be caused by such a rejection should lead to a long term

solution. Any Government which is defeated by the Parliament on a major taxation Bill should resign . . . This Bill will be defeated in another place. The Government should then resign". [28]

When that same Bill reached the Senate, this is what Senator Lionel Murphy, Leader of the Opposition in the Senate, had to say: "For what we conceive to be simple but adequate reasons, the Opposition will oppose these measures. In doing this the Opposition is pursuing a tradition which is well established, but in view of some doubt recently cast on it in this chamber, perhaps I should restate the position. The Senate is entitled and expected to exercise resolutely but with discretion its powers to refuse concurrence to any financial measure, including a tax Bill. There are no limitations on the Senate in the use of its constitutional powers, except the limitations imposed by discretion and reason. The Australian Labor Party has acted consistently in accordance with the tradition that we will oppose in the Senate any tax or money Bill or other financial measure whenever necessary to carry out out principles and policies. The Opposition has done this over the years, and in order to illustrate the tradition which has been established, with the concurrence of honourable senators I shall incorporate in Hansard at the end of my speech a list of the measures of an economic or financial nature, including taxation and appropriation Bills, which have been opposed by this Opposition in whole of in part by a vote in the Senate since 1950". [29] At the end of his speech Senator Murphy tabled a list of 169 occasions when Labor Oppositions had attempted to do, unsuccessfully, what the Liberal/National Party Opposition succeeded in doing in 1975.

Two months later, on 25th August 1970, the Labor Opposition launched its 170th attempt since 1950. On that occasion Gough Whitlam had this to say: "Let me make it clear at the outset that our opposition to this Budget is no mere formality. We intend to press our opposition by all available means on all related measures in both Houses. If the motion is defeated, we will vote against the Bills here and in the Senate. Our purpose is to destroy this Budget and to destroy the Government which has sponsored it". [30] As Jack Kane, one-time Federal Secretary of the Australian Democratic Labor Party and former D.L.P. Senator for New South Wales, wrote in 1988: "There is no difference whatsoever between what Whitlam proposed in August 1970 and what Malcolm Fraser did in November

1975, except that Whitlam failed - the Budget being carried by a bare majority of twenty four to twenty two. Senator Murphy, for Whitlam, sought the votes of the D.L.P. Senators, unsuccessfully. That is the only reason why Whitlam did not defeat the 1970 Budget in the Senate and thus fulfil his declared aim to destroy the Gorton Government". [31]

So much for the Senate's actions in 1975 being a gross violation of its role. Of course, we are all accustomed to politicians who have one view when in Opposition and a different view when in Government. But I don't recall a single reminder from the media to the community, during 1975 or since, of the views held and expressed by Whitlam and Murphy in 1967 and 1970. What is even worse, as I have already mentioned, students studying Australian politics at university are still taught that the Senate's actions in 1975 were unprecedented, and improper, but they are not told that what it did then was so clearly and forcefully, and repeatedly, enunciated by Lionel Murphy and reinforced by Gough Whitlam, years earlier, and attempted on so many previous occasions by their side of politics.

I can imagine some of you thinking that it is not really surprising to find politicians changing their views as they move from one side of Parliament to the other. Well, let us see if we can find higher authority to dispel the myth that the blocking of supply by the Senate, under the present provisions of the Constitution, is the violation of its role that it was claimed to be during the debates of October and November 1975. On 30th September 1975 the High Court handed down its judgement in Victoria v the Commonwealth. [32] Four of the learned judges expresed opinions which supported the view that, except for the constitutional limitation on the power of the Senate to initiate or amend a money Bill, the Senate was equal with the House of Representatives as a part of the Parliament, and could reject any proposed law, even one which it could not amend. The judges who expressed these opinions were Sir Garfield Barwick, the then Chief Justice; Sir Harry Gibbs and Sir Anthony Mason, who each, in turn, became Chief Justice; and Sir Ninian Stephen, who later became Governor-General.

It is true that Commonwealth Law Reports are not widely read, but the relevant parts of these judgements were incorporated in Hansard on 30th October 1975. [33] And yet many adult Australians still believe, and many young Australians are still taught, that the

Senate, in blocking supply, violated its role and exceeded its authority.

The next major myth which was developed at the time had two stages. The first stage was that the Governor-General could act constitutionally only on the advice of his Ministers, or more particularly at the time, on the advice of his Prime Minister, and then only in accordance with that advice. The second stage, once the phrase 'reserve powers' began to gain currency, said that the reserve powers of the Crown had long since lapsed into desuetude. The politicians and the commentators forgot, if they ever knew, that Lord Casey, as Governor-General, as recently as 19th December 1967, had exercised the reserve powers following the disappearance of Prime Minister Harold Holt. Without ministerial advice, for there was no-one who legally could give it, the Governor-General revoked Holt's appointment as Prime Minister, in accordance with section 64 of the Constitution, exactly as Sir John Kerr did with Whitlam's appointment, and chose John McEwan to be the next Prime Minister, axactly as Sir John Kerr did with Fraser's appointment.

Notwithstanding the fact that Whitlam was constantly reminding the Governor-General, both privately and publicly, that he could act constitutionally only on the advice of his Prime Minister, the existence of the reserve powers would have been, or should have been, well known in Labor circles. One of the most definitive and scholarly works on the subject, entitled *The King and His Dominion Governors,* had been written in 1936 by H. V. Evatt [34], then a Justice of the High Court, later to become a member of the House of Representatives and Leader of the Parliamentary Labor Party. Evatt believed that the reserve powers exercisable by The Queen or by her representative in a Commonweath country needed to be more precisely defined, and that the principles upon which they would be exercised should be settled and stated as clearly as possible, but today, 51 years later, nothing has been done, though the matter was considered by the Constitutional Commission which reported on 30th June 1988. [35]

In his 1936 introduction to the first edition of Evatt's book, K. H. Bailey (then Professor of Law at the University of Melbourne, and later simultaneously Secretary to the Commonwealth Attorney-General's Department and Solicitor-General of the Commonwealth) wrote: "One of the distinctive features of the British

constitution, as has often been remarked, is the combination of the democratic principle that all political authority comes from the people, and hence that the will of the people must prevail, with the maintenance of a monarchy armed with legal powers to dismiss ministers drawn from among the people's elected representatives, and even to dissolve the elected legislature itself. In normal times the very existence of these powers can simply be ignored. In times of crisis, however, it immediately becomes of vital importance to know what they are and how they will be exercised. . . . A constitution in an emergency period has need of emergency powers, not over-rigidly defined. But the risks of undefined elasticity are also great. They are great even in the United Kingdom, but they are greated still in the Dominions. The importance in this regard of the new conventions regulating the appointment of the King's representative in a Dominion can scarcely be over-emphasized. Any exercise of reserve powers by the Crown must inevitably involve the King, or his Dominion representative, in the assumption of very heavy personal responsibility, to his advisers, to Parliament, and to the people. It will inevitably entail unpopularity in some quarters". [36]

How right he was. But whether they remain undefined and unregulated or not, the reserve powers of the Crown do exist and are exercisable by a Governor-General. And lest 1936 be too far back in time for the modern day politician or the modern day political journalist, let us come forward and look at the 1951 double dissolution which Prime Minister Menzies recommended to Governor-General Sir William McKell.

On that occasion the Governor-General did in fact accept the advice of the Prime Minister, supported by the opinions of the Attorney-General and the Solicitor-General, that the Senate's failure to pass a Bill which had twice been passed by the House of Representatives satisfied the requirements of section 57 of the Constitution and allowed the Prime Minister to recommend a double dissolution. Significantly, nowhere in the documents submitted to the Governor-General was there reference to any obligation or supposed obligation on his part to accept ministerial advice. On the contrary, the Prime Minister advised the Governor-General that he was entitled to satisfy himself and to make up his own mind on the matters submitted to him. [37]

Interestingly enough, and specially so in the light of the

Labor view in 1975, the Labor view in 1951 was that the Governor-General should not accept the Prime Minister's advice, that he should seek independent legal advice, and that he should seek it from the Chief Justice of Australia, Sir John Latham. [38]

This 1951 view held by the Labor Party that the Governor-General should consult the Chief Justice brings me to what was probably one of the biggest canards put about after 11th November 1975 - the views expressed by so many politicians, academics and journalists that Sir John Kerr, in consulting the Chief Justice, and Sir Garfield Barwick, in responding to that request, had acted improperly and unconstitutionally, and almost without precedent. [39]

May I interpolate here that, in describing this as one of the biggest canards of 1975, I am of course reserving the label of the biggest canard of all for the assertion that the United States Central Intelligence Agency was involved in the dismissal or in events leading to it. Such an assertion is totally untrue, no evidence in support of it has ever been produced, and there is no evidence that even those who spread the story ever believed it themselves. I therefore propose not to dignify it by making any further reference to it.

Well, back to the question of advice from the Chief Justice. The attacks, when they came, were twofold, and sought to discredit both the Governor-General and the Chief Justice. Once again, as in the case of the blocking of supply by the Senate, there is considerable anecdotal evidence that many adults believe, and many students were taught, that they acted improperly, unconstitutionally and without precedent.

In fact we know of at least three Chief Justices who have given advice to Governors-General on the exercise of their Vice-Regal powers. They were Sir Samuel Griffith, Sir Owen Dixon and Sir Garfield Barwick. They gave their advice, when it was asked for, to no less than seven, or one third, of our twenty one Governors-General since Federation. They were Lord Northcote, Lord Dudley, Lord Denman, Sir Ronald Munro Ferguson, Lord Casey, Sir Paul Hasluck and Sir John Kerr. The research into these consultations was done by Dr Don Markwell, formerly an Australian Rhodes Scholar, Visiting Fellow in Politics at the University of Western Australia and Junior Dean at Trinity College, Oxford, and

currently Fellow and Tutor in Politics at Merton College, Oxford. [40]

Markwell also concludes that at least one other Chief Justice, Sir John Latham, and four Justices of the High Court, Sir Edmund Barton, Sir Keith Aickin, Richard O'Connor and Dr H. V. Evatt, would have agreed with the proposition that such consultation was permissible. There are also many examples of State Governors consulting a Chief Justice, but I need not go into details here. The myth that "Only one Governor-General, Sir Ronald Munro Ferguson, had consulted with a Chief Justice . . ." [41] has been finally laid to rest.

The final myth or legend which I want to deal with on this occasion is the one which presented Sir John Kerr in retirement as an exile and as a recluse. He had asked The Queen that he might be allowed to retire early, and he stepped down in December 1977, in order that a successor might set about healing the national wounds. He had withstood the public protests and demonstrations of 1976, and had had a further year, 1977, virtually free of such annoyances. He had asserted his right, as was his duty, to go about his public engagements throughout Australia without let or hindrance, and the overwhelming majority of his fellow Australians continued to welcome him warmly. Nevertheless, he felt that the fairest thing he could do for his successor would be to remove himself from the local scene for a few years. Living, and travelling, in the United Kingdom and Europe was no exile for Sir John, and those who attended his memorial service in Sydney earlier this year will have heard one of his more recent friends, a young Australian scholar at Oxford, speak of his time in England. [42] This was Don Markwell, to whom I have already referred.

Markwell's friendship with Sir John began in 1982 when he was one of a group of Australian students who invited Kerr to speak at an Australian dinner in Oxford. Of their first meeting Markwell said: ". . . we were pretty nervous about entertaining so great a figure. But all went well. There was immediate warmth between us, all reserve vanished, and an enduring friendship began". [43] Some nine years later, at the memorial service, Markwell was able to say: "The man I knew was a man who enjoyed life - a serious minded man, certainly, with a strong sense of duty, and a man of industry and achievement; but one whose seriousness was balanced by a

buoyant sense of humour and of fun; a man who rejoiced in the joy of life. He was no exile, no embittered recluse". [44]

To be the personal representative of his Sovereign and to be de facto Head of State of his country was the high point in Sir John's career, but, if history is to deal with him accurately and fairly, he deserves to be remembered for more than that. In the words of Sir Anthony Mason, Chief Justice of Australia, who also spoke at the memorial service, "John Kerr's record of achievement speaks for itself. Behind the record was a distinguished lawyer with wide-ranging interests in law reform, politics, administration and public and international affairs. His vision of the law extended well beyond the preoccupation of a technical, professional lawyer. He was conscious of the intricacy of the relationship between law, government and society. These are all values which modern legal education seeks to foster in future generations of Australian lawyers". [45]

Back in May 1976, Geoffrey Sawer, Emeritus Professor of Law at the Australian National University, in the course of reviewing two books on the fall of the Whitlam Government, and commenting on a third which had been published earlier, noted that all three books, which had been written within a few months of the event, predicted that the actions of the Senate were likely to produce lasting instability in Federal politics. [46] I only hope that any future historian who refers to those and to other writings penned early in 1976 will also look at later writings. In the 15 years that have elapsed - not a long time in the course of history - perspectives have already mellowed, even for those who were themselves close observers of the constitutional crisis and its participants.

Writing immediately after Sir John Kerr's death, Peter Bowers, political correspondent for *The Sydney Morning Herald* in 1975, had this to say about the event: "November 11, 1975, changed the way a lot of Australians thought about politics but did it really change our lives? I think not. And perhaps that is the real, the reassuring lesson of that day". [47]

The next day, Michelle Grattan, political correspondent for *The Age* in 1975, and still today, had this to say about the man: "However, the historians will probably be kinder to Sir John than the contemporary commentators, for two reasons. Time will produce

cooler assessments, that will take greater note of his dilemma and be less swayed by Whitlam's case. And the apparent absence of enduring harm will count in Kerr's favour". [48]

I don't think that either of these distinguished journalists could have written those words 15 years ago. That they felt able to write them today tells us something about the passage of time. It also tells us something about the stuff of history.

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NOTES

[1] See D. I. McDonald's introduction to 'The Inaugural Nan Phillips Memorial Lecture', in the *Canberra Historical Journal,* September 1986

[2] *The Canberra Times,* 5th October, 1985, 'Long-Serving secretary honoured by lecture series'.

[3] *The Canberra Times,* 28th April, 1986, 'Mrs Nan Phillips, historian'; and D. I. McDonald, 'Nan Phillips: an appreciation', in the *Canberra Historical Journal,* September, 1984.

[4] *The Sydney Morning Herald,* 26th March, 1991, Peter Bowers, 'The day that tore us in two'.

[5] Interview by Television Channel 9 at Melbourne Airport on 26th March, 1991.

[6] *The Sydney Morning Herald,* 23rd April, 1991, Gerard Henderson, 'Gallipoli - don't blame the Brits for a true blue disaster'.

[7] ibid.

[8] *Australian Dictionary of Biography* (Melbourne University Press, Melbourne), Vol. 10, pp. 581-2.

[9] C. E. W. Bean, *The Official History of Australia in the War of 1914-1918* (Angus & Robertson, Sydney).

[10] Henderson, loc. cit.

[11] Sir John Kerr, *Matters for Judgement - An Autobiography* (Macmillan, Sydney, 1978).

[12] Gough Whitlam, *The Truth of the Matter* (Allen Lane, Ringwood, 1979).

[13] Ross McMullin, *The Light on the Hill: The Australian Labor Party, 1891-1991* (Oxford University Press, Melbourne, 1991).

[14] Derek Parker, *The Courtesans - The Press Gallery in the Hawke Era* (Allen & Unwin, Sydney, 1991).

[15] *The Bulletin,* 9th April, 1991, Sam Lipski, 'A draught of history'.

[16] ibid.

[17] ibid.

[18] Letter dated 25th October, 1990 from the Acting Director - Radio, Australian Broadcasting Corporation.

[19] Letter dated 17th January, 1991 from the General Manager, Information Programs - Radio, Australian Broadcasting Corporation.

[20] Press Release dated 10th April, 1991 by the House of Representatives Standing Committee on Legal and Constitutional Affairs.

[21] *The Canberra Times,* 20th April, 1991, letter to the Editor, 'Alter formula to reflect life'; and *The Sunday Age,* 21st April, 1991, contributed article, 'Time to ensure women's work is recognised'.

[22] *The Canberra Times,* 23rd April, 1991, letter to the Editor, 'Perhaps he could wait for the evidence'; and *The Sunday Age,* 28th April, 1991, letter to the Editor, 'Awards: Inquiry result a foregone conclusion'.

[23] *The Financial Review,* 4th June, 1991, Sue Neales, 'Tarnished society mirror in need of some polish'.

[24] Speech at the Order of Australia Association's annual dinner in the Great Hall, Parliament House, Canberra, on 28 January, 1989.

[25] Colin Howard & Cheryl Saunders, 'The Blocking of the Budget and Dismissal of the Government', in Gareth Evans, (ed.), *Labor and the Constitution 1972-1975,* (Heinemann, Melbourne, 1977) p. 287.

[26] *Parliamentary Debates,* Vol. H. of R. 97, p. 2199.

[27] *Parliamentary Debates,* Vol. S. 34, p. 1495.

[28] *Parliamentary Debates,* Vol. H. of R. 68,pp. 3495-6.

[29] *Parliamentary Debates,* Vol. S 44, p. 2647.

[30] *Parliamentary Debates,* Vol. H. of R. 69, p. 463.

[31] Jack Kane, *Exploding the Myths - The Political Memoirs of Jack Kane,* (Angus & Robertson, Sydney, 1989), p. 192.

[32] (1975) 134 CLR 81.

[33] *Parliamentary Debates,* Vol. H. of R. 97, pp. 2701-2.

[34] H. V. Evatt, *The King and His Dominion Governors - A Study of the Reserve Powers of the Crown in Great Britain and the Dominions,* (Frank Cass and Company Limited, London, 1936, second edition 1967). The other detailed and definitive study of the reserve powers is by the Canadian Senator and constitutional authority, E. A. Forsey, *The Royal Power of Dissolution of Parliament in the British Commonwealth,* (Toronto, 1943).

[35] *Final Report of the Constitutional Commission 1988,* (Australian Government Publishing Service, Canberra, 1988).

[36] Evatt, op. cit., K. H. Bailey, Introduction to the First Edition, pp. xxxvii-xxxviii.

[37] Parliament of the Commonwealth of Australia, 1957, no. 6: Documents relating to the 1951 Dissolution.

[38] Evatt, op. cit., Zelman Cowen, Introduction to the Second Edition, pp. xxiv-xxvii.

[39] It was acknowledged by some writers that there was one precedent, that of Governor-General Sir Ronald Munro Ferguson (later Lord Novar) seeking advice from Chief Justice Sir Samuel Griffith, but that was done with the permission of the Prime Minister Joseph Cook, and for that and other reasons was seen as permissible and exceptional. See Geoffrey Sawer, *Federation Under Strain - Australia 1972-1975,* (Melbourne University Press, Melbourne, 1977), p. 157.

[40] Don Markwell, 'On Advice from the Chief Justice', in *Quadrant,* July 1985, pp. 38-42. See also Markwell, letters to the Editor, Quadrant, October 1985, p. 5, and *Quadrant,* April 1986, p. 5, for additional material.

[41] Whitlam, op. cit., p. 91.

[42] Don Markwell, 'Sir John Kerr: A Reflection'; words spoken at the memorial service in St. James's Church, Sydney, on 6th April, 1991.

[43] ibid.

[44] ibid.

[45] Sir Anthony Mason; words spoken at the memorial service held in St. James's Church, Sydney, on 6th April, 1991.

[46] *The Canberra Times,* 20th May, 1976, Geoffrey Sawer, 'A pair of political thrillers on the fall of the Whitlam Government'. The books reviewed were: Laurie Oakes, *Crash Through or Crash: The Unmaking of Gough,* (Angus & Robertson, Sydney, 1976); and Clem Lloyd and Andrew Clark, *Kerr's King Hit,* (Cassell Australia, 1976).

[47] *The Sydney Morning Herald,* 26th March, 1991, Peter Bowers, 'The day that tore us in two'.

[48] *The Age,* 27th March, 1991, Michelle Grattan, 'Rage fades in the dying of the light'.

A GRAND VISION FOR AUSTRALIANS – BUT WHOSE? (A SOCIAL CREDIT VISION)

by

V. J. Bridger

Public pronouncements by politicians and others since 1990 have revealed that they have a grand vision for Australia relating to our Federation, climaxing at the turn of the century to commemorate our first one hundred years of Constitutional Federation. Obviously, the ultimate achievement will be the alteration of the Constitution. It is a sentiment which will be shared by many Australians. To reveal his idea of a grand vision at this time obviously puts a time scale of ten years, during which time it may be said that the matter will be open to public debate, and extracted from this 'public' debate will be those elements, which may be said to be for the 'good of all', or in the National Interest, which will take us into the twenty first century.

Let us consider a number of matters which will need to be examined if the end result is to be in the beneficial interest of the individual members of this nation and not glibly accepted on a collective abstract basis.

Periodically, Constitutional conventions are set up by the Federal Government to investigate what changes, if any, they consider may be necessary to the Constitution. The most recent commenced in 1986 ending with the Referendum of 1988. As the Government is the determinant of Policy, it is the choice of the Government to instigate those changes which are in conformity with their policy. The 1986 enquiry culminated in the Referendum of 1988 in which the people expressed their will by voting 'NO' on all items placed in the Referendum.

During the course of the Constitutional Commission's enquiry they released a video for public consumption which in itself was interesting. Firstly, the very act of providing the video was no

less than an attempt to sway public opinion, rather than be a reflection of it. Secondly, it was nothing short of a contemptuous regard for the Constitution, portraying it as being old fashioned and out of date. The most insidious part of the propaganda contained in the video was the utter disdain for the opening words of the Constitution, "Whereas the people".

The Constitutional Commission of 1986 was to review the Constitution by, to quote them, 'consulting the people of Australia extensively in the process'. The extent of their consultation with the people may be determined from the result of the defeat of ALL items in the referendum. In addition, by far the greatest number of submissions received by the Commission dealt with the introduction into the Constitution of the concept of Initiative and Referendum. This was not included in the defeated Referendum of 1988.

There are certain individuals who argue on the basis that a Referendum put to the people produces a negative result because people 'always' vote NO. This is not only incorrect, but deliberately misses the point that it is the WILL of the people irrespective of rights or wrongs, and is indicative of the desire of the people to be wary of centralising power. Because of the natural desire of the people of Australia over the last ninety years to refuse giving more power to Canberra there is more than likely to be a more subtle approach by those POLICY MAKERS who wish to ensure those policies are capable of being implemented. Hence, The Grand Vision.

There will inevitably be discussions relating to duplication and overlapping of responsibilities between Local, State and Federal authorities and many of these arguments will have a valid basis but, who will make the final decision, and between whom will the agreements be reached, and what propaganda will the people be subjected to over the coming ten year period? For those of us who understand the Art(s) of Government, and the reluctance of current politicians to entertain the idea of initiative and referendum emanating from the people instead of Government, it would be wise to ponder on the ultimate objective of the Grand Vision, and WHOSE Grand Vision is being presented.

True Social Crediters have a Grand Vision, not a Utopian dream, and we know what treatment that has received. In fact, we

have seen the development over the years of the very antithesis to the idea of economic security and freedom to the individual. The 'plan' for the United States of Europe is moving with that momentum that Douglas spoke of in The Fig Tree, September, 1936. It is just as applicable to the 1990's.

'Political propaganda has reached dimensions previously unknown, by means of syndicated newspapers, broadcasting, motion pictures, and so forth, [to which we can now add satellite communications and television], whilst the submission of large populations everywhere, has generated mass emotion on a scale which is reflected in the wars and revolutions contemporaneous with it.' '. . . with the magnitude of modern social forces it is not much use applying the brake if the vehicle is hell-bent to destruction on full throttle. The forces which make for destruction in the world today are more powerful than they were twenty-five years ago (1921), and there seems to be little more prospect that their direction will be diverted.'

The quotation is part of an article which raised a point of great significance. That is that the 'EFFECTIVE' policy (the objective which will more or less inevitably be reached) is at variance with the real policy of the majority of persons associating to produce it.

To speak of Policy is to use a word which to many people means very little unless it is related to a political party organisation. An 'EFFECTIVE' policy is one which is precisely that - 'EFFECTIVE'. To put it in simple language it means that a policy, which is undertaken, and achieves its purpose or objective, is an effective policy. Such policies as are undertaken by political parties and carried into effect are not necessarily the policies of those people who in the main administer them or those individual members who make up the greater proportion of society. This is true irrespective of the fact that elected members of a government claim to have a 'mandate' by virtue of their 'success' at the election.

To ensure the final objective is achieved it is necessary to maintain a strategy which has been called an ART of Government. The practice of the ARTS of Government can be readily seen in the evasive action by politicians to questions which tend to expose their plan, or the denigration of the questioner by the politician. In other

cases there is a reliance to some other Authority such as a select committee, reputable body of people or organisation, or an 'expert' in the field. Sometimes, even an appointment of an eminent person to a committee of enquiry can provide the appearance of an unbiased approach. Of course, it has been stated often that a government is not bound to accept or act on recommendations of any such body so established.

This vision for further reform to the Australian Constitution has taken one step forward. The appointment of an eminent person to the conference in April, 1991 was no doubt the first of a series of steps towards the achievement of the objective. It is doubtful if there is likely to be a series of referendums put to the people based on what the people may wish to have included. There may be many areas of a technical nature which would not be in the province of lay individuals, and certainly areas of duplication and overlapping between the Commonwealth and States which need to be addressed. However, the most important issue which over-rides all other considerations is the rights of the individual in society.

This does not mean that a Bill of Rights should be imposed upon the people of Australia. It means that the people who constitute the Australian Society should have the right to have an input into the government of their country. This implies that there should be some mechanism whereby this is possible. This leads naturally to the concept of 'Government by the people'. The Oxford English dictionary defines Democracy as 'Government by the people; that form of government in which the sovereign power resides in the people as a whole, and is exercised either directly by them or by officers elected by them'. The Concise Oxford English Dictionary puts it simply, 'Government by the people; direct or representative'. C. H. Douglas defined democracy as 'The right to atrophy a function'. Implicit in this definition was the ability of the people to have that right.

From the days of the early Greeks and as conceived by Plato and Aristotle there was a dream, a quest, certainly not an impossible dream, to distinguish between the individual and the State. There is enough evidence throughout history recording the sacrificing of the development of the freedom of the individual in the interest of the State. The history of Society through the ages

records the action and reaction between the individual and the institutions which are the embodiment of the State.

The greatest contribution to this debate was that provided by Christianity and the tremendous value it placed upon the soul of each individual. It highlighted the importance of individual responsibility and laid great stress upon this belief.

The individual members of society do not exercise their responsibility where they choose to delegate it to elected 'representatives'. Those 'representatives' who, by virtue of their political party allegiance do not carry out policies required by their constituents, but rather the policies of their particular party, act as delegates and not representatives. The alternative is utilising a mechanism which provides the opportunity for direct participation by the people.

There is such a mechanism known as voter initiated referendums which may be regarded as an extension of direct democracy. The Australian Constitution contains the very basis of direct democracy in its opening words regarded by some as old fashioned and outdated.

"Whereas the people of New South Wales, Victoria, South Australia, Queensland and Tasmania, humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth . . . ."

The power of individuals in Society to affect the Social Credit is itself a part of the Social Credit. If Australians wish to produce an effective policy of their desire they have part of the method in place in the Constitution. If they wish to increase the Social Credit then it is necessary to increase the method or means. There are two ways by which individuals can affect the Social Credit: the TECHNICAL and the POLITICAL. The inclusion of Initiative and Referendum proposals in the Constitution would provide the political mechanism to allow individuals to effect policies towards gaining their desired results.

To many people, proposals relating to what has been referred to as 'Initiative and Referendum', may seem obscured. This is not surprising, because although the idea has spread throughout Australia and New Zealand, and has been propounded by some in

Canada and even in Britain, there has been little mention in the media. The opposition to the idea is strongest by established political parties although, if their members understood it, they could see the advantages in the proposals.

The idea is not new, having been in operation in various forms in Switzerland for over 100 years, and in various States in the United States of America. In Australia, the concept was part of the Australian Labor Party Federal platform from 1908 until 1963, when it was removed on a motion by Mr. D. A. Dunstan at the Party's Perth Conference. Other attempts by the Labor Party, which were blocked by the opposition-led upper house, and in recent years by the Democrats in introducing Private Members' Bills, are a matter of record. The Liberals in Western Australia opted for a much watered down version and the Liberal Party in Tasmania is strongly supportive. In Queensland, in 1987, the then Queensland Government included in its submission to the Constitutional Commission a recommendation for what they termed 'Popular Initiative'. This was subsequently disposed of by the National Party. The Call to Australia Party in New South Wales has also been involved with a Bill before the New South Wales Parliament.

One would have thought that with all the activity which has taken place since the late 1980's that most people in Australia would have heard about it and would at least understand what it was. The fact that it is still virtually unknown bears witness to the conspiracy of silence. One may deny this claim, but it can be readily evaluated against the publicity given to the republican debate. One could infer from this that those who support the republican viewpoint may oppose the concept of C.I.R..

If there are enough Australians who have a grand Vision for Political and Economic Democracy then they should familiarise themselves with this concept. To put it briefly and concisely, the concept of Citizens' Initiative and Referendum, commonly referred to as C.I.R. involves:

1. THE INITIATIVE

This is a procedure whereby an agreed number of voters having signed a Petition, would compel the Government to hold a referendum to determine an issue. The issue may be with regard to

a proposed law or the repeal of an existing law. It may even be with regard to a law of their own choosing. There are two (2) types of Initiative, Constitutional and Legislative.

(a) The Constitutional Initiative

This provides for the prescribed number of Voters to have the power to petition for the holding of a Ballot on a proposed amendment to the Constitution.

(b) The Legislative Initiative

This allows for a petition on a proposed measure to be placed on the Ballot paper for submission to the electorate WITHOUT any action or intervention by the Parliament.

2. THE REFERENDUM

Although most people are, or should be, familiar with the Referendum process, what is being specifically proposed in this concept is that such Referendums would be automatically binding, and must be held if a certain number of voters sign a Petition.

THE CONSTITUTIONAL REFERENDUM

The people of Australia who are required to register on the roll to vote should be aware that the Commonwealth of Australia's Constitution provides for compulsory (?) referendums for Constitutional Amendments INITIATED ONLY BY PARLIAMENT.

Constitutional Referendum would permit people ALSO to initiate amendments to the Constitution.

There have been many arguments against such proposals, mostly groundless, and many based on misinformation. It is not proposed to discuss these here, but leave it to the reader to become more informed and decide for himself or herself whether the individuals who comprise this society and who elect people to represent them, should have the power to contribute to their own well-being and future and the future of their children and grandchildren. Should the people have the right to determine their political and economic environment, or should this be delegated to Governments and the 'experts'? Even if the people make the wrong

decision, they would still have the opportunity to correct it. As it is, they have neither the right nor the opportunity.

If there is to be a Grand Vision for Australia it may well be that the introduction of Initiative and Referendum would provide it. The provision for decentralised power instead of concentrating power in Canberra would give the individual access to grater political freedom and at the same time provide the impetus for greater economic freedom as understood by Social Crediters.

For those who wish to understand this concept a reading of the publication "The People's Law" by Professor Geoffrey de Q. Walker is recommended. The book is written in easy to understand language and provides arguments for and against

For Social Crediters who wish to make a positive contribution to the Social Credit it must be remembered that increased knowledge is increased power, and increased power put into action is a positive step towards an increment in the Social Credit.

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Published by

THE SOCIAL CREDIT SCHOOL OF STUDIES INC.
3 Beresford Drive, Samford, Queensland, 4520
(Phone (07) 289 1104)

ISBN 0 646 08593 X

(Typeset using the 'Wordpal' Text Processing System)