

## **PART 3 – SELECT BIBLIOGRAPHY**

### **INTRODUCTION**

This section contains a bibliography on Commonwealth constitutional change, and is provided for the use of students and others who wish to extend their study of constitutional change and of the Constitution more generally.

The bibliography's focus is on reform of the Constitution, but a small number of more general constitutional references, including official reports of governments, parliamentary committees and Royal Commissions are in the general section of the bibliography. Some reports on the constitutional development of the territories of the Commonwealth are included.

The bibliography is divided into five sections: general, constitutional change, the Australian Constitutional Conventions, the Australian Constitutional Commission, and Referendums. Books and journals are listed separately within these 5 sections, and arrangement is alphabetical by author and title. Parliamentary papers are indicated by the format: "PP number/year".

Many sources have been used in the preparation of the bibliography. These included the Department of the Parliamentary Library's catalogue and its ISR database, and the indexes to the Parliamentary Papers series. External databases used were APAIS and AGIS. Abstracts from the various databases have generally been included but some have been edited so as to achieve consistency of style. The works included in the bibliography have been drawn mainly from information sources covering the past twenty years. While some older works are included, readers are advised to consult later works in addition to these historical sources.

Most of the work involved in preparing the bibliography was undertaken by the Politics and Public Administration Group in the Parliamentary Library. The Committee wishes to thank those who compiled it.

### **Disclaimer**

***This bibliography is not intended to be a comprehensive guide to sources on the Constitution, and the following subjects have been excluded:***

- case law and the role of the High Court
- the 1975 constitutional crisis
- the role of the Governor-General
- role of the Senate
- the Republic
- a Bill of Rights
- Citizens initiated referendums
- Native Title

**Sources excluded are:**

- court cases
- radio and television transcripts
- newspaper articles
- press releases

## GENERAL

### Books and Official Reports

AITKIN, Don; JINKS, Brian and WARHURST, John. **The Australian Constitution.** In **Australian political institutions.** 4th edition. Melbourne: Longman Cheshire, 1989.

ALDRED, Ken; ANDREWS, Kevin and FILING Paul. **The Heart of Liberalism: the Albury papers.** Mitcham, Vic.: the Editors, 1994

AUSTRALIA. Conference of Commonwealth and State Ministers on Constitutional Matters, Melbourne, February, 1934. **Proceedings and Decisions of Conference with Appendices.** Canberra: Commonwealth Government Printer, 1935. PP 134/1934-37.

AUSTRALIA. Parliament. Department of the Parliamentary Library. **The Constitution Papers.** Canberra: AGPS, 1996. Parliamentary Research Service Subject Collection No.7.

AUSTRALIA. Parliament. Department of the Senate. **Parliament and the Constitution: some issues of interest.** Canberra: Dept of the Senate, 1993.

AUSTRALIA. Parliament. House of Representatives Standing Committee on Legal and Constitutional Affairs, **Report. The third paragraph of section 53 of the Constitution.** Chair: Daryl Melham. Canberra: AGPS, 1995. PP 307/1995.

AUSTRALIA. Parliament. Joint Committee on Constitutional Review.  
**First Report, 1958.** Canberra: Commonwealth Government Printer, 1958. PP 50/1958.  
**Second Report, 1959.** Canberra: Commonwealth Government Printer, 1959. PP 108/1969-60

AUSTRALIA. Parliament. Joint Committee on the Northern Territory.  
**Report on constitutional development.** Canberra: Government Printer, 1975. PP 281/1974.

**Report on constitutional development in the Northern Territory: Second Inquiry.** Canberra: Government Printer, 1976. PP 135/1975.

AUSTRALIA. Parliament. Senate Standing Committee on Constitutional and Legal Affairs.

**Report. Retiring Age for Commonwealth Judges.** Canberra: Acting Commonwealth Government Printer, 1977. PP 414/1976.

**Report. Advisory opinions by the High Court.** Canberra: AGPS, 1977. PP 222/1977.

**Report. Constitutional qualifications of Members of Parliament.** Canberra: AGPS, 1981. PP 131/1981.

**Report. Two Hundred Years Later....** Canberra: AGPS, 1983. PP 107/1983.

**Report. Commonwealth law making power and the privilege of freedom of speech in state parliaments.** Canberra: AGPS, 1985. PP 235/1985.

AUSTRALIA. Parliament. Senate Standing Committee on Legal and Constitutional References. **Report. Trick or treaty? Commonwealth power to make and implement treaties.** Chair: C Ellison. Canberra: Dept of the Senate, 1995. PP 474/1995.

AUSTRALIA. Royal Commission into matters relating to Norfolk Island. **Report.** Commissioner: John A Nimmo. Canberra: AGPS, 1976. PP 305/1976.

AUSTRALIA. Task Force on implementation of ACT self government. **Report. Advice to the Minister for Territories and Local Government, including consolidated advice and recommendations.** Chairman: Gordon Craig. Canberra: AGPS, 1984. PP 139/1984.

BRENNAN, Frank. **Securing a bountiful place for Aborigines and Torres Strait Islanders in a modern, free and tolerant Australia: an options paper.** Carlton: Constitutional Centenary Foundation (Australia), 1994.

COPER, Michael and WILLIAMS, George. **The Cauldron of Constitutional Change,** Canberra: Centre for International and Public Law, 1996.

COUNCIL for Aboriginal Reconciliation. **The position of indigenous people in national constitutions: conference report, Canberra, 4-5 June 1993.** Canberra: Constitutional Centenary Foundation (Australia) AGPS, 1993.

CRISP, L.F. **Australian national government.** Melbourne: Longman Cheshire, 1983.

Section 1 (Chapters 1 to 5) discusses various aspects of the Constitution. See especially Chapter 2, **The people and the Constitution.**

EMY, Hugh V. and HUGHES, Owen E. **The Constitution**. In **Australian politics: realities in conflict**. 2nd edition. South Melbourne, Vic.: Macmillan, 1991. Chapter 7.

Note: Third edition, 1997, forthcoming.

GALLIGAN, Brian. **A federal republic: Australia's constitutional system of government**. Cambridge, England: Cambridge University Press, 1995.

**House of Representatives practice**. Edited by A R Browning. 2nd edition. Canberra: AGPS, 1989. 3rd edition. Canberra: AGPS, 1997.

LANE, P. H. **Lane's commentary on the Australian Constitution**. North Ryde, Sydney: Law Book Co., 1986.

LANE, P. H. **Seventh cumulative supplement to Lane's commentary on the Australian Constitution**. North Ryde, Sydney: Law Book Co., 1995.

LUMB, Richard D. and MOENS, Gabriel. **The Constitution of the Commonwealth of Australia annotated**. Sydney: Butterworths (5th ed.), 1995.

McMINN, W. G. **A constitutional history of Australia**. Melbourne: Oxford University Press, 1979.

**Odgers Australian Senate practice**. Edited by Harry Evans. 7th edition. Canberra: AGPS for the Department of the Senate, 1995.

QUICK, John and GARRAN, Robert Randolph. **The annotated Constitution of the Australian Commonwealth**. Sydney: Legal Books, 1901. Reprinted 1976.

SAWER, Geoffrey and ZINES, Leslie. **Commentaries on the Australian Constitution : a tribute to Geoffrey Sawer**. Sydney: Butterworths, 1977.

SINGLETON, Gwynneth, et al. **Australian political institutions**. 5th edition. Melbourne: Longman, 1996.

TOOHEY, John Leslie, **Review of Aboriginal Land Rights (Northern Territory) Act**. Canberra: AGPS, 1984. PP 139/1984.

WARDEN, James. **Federalism and the design of the Australian Constitution**. Canberra: Federalism Research Centre, ANU, 1992.

WHITLAM, E.G. **The Labor Government and the Constitution**. In **Labor and the Constitution, 1972-1975: essays and commentaries on the constitutional controversies of the Whitlam years in Australian Government**. Edited by Gareth EVANS. Melbourne: Heinemann, 1977: 305-350.

**WINTER, T. C. Power over prices and incomes. Report to the Australian government upon certain matters relating to power over prices and incomes, November 1973.** Canberra: The Government Printer, 1974. PP 302/1973.

**ZINES, Leslie. The High Court and the Constitution.** Sydney: Butterworths, 1997.

## GENERAL

### Articles

EASTICK, Jennifer E. **The Australian Aborigine: Full Commonwealth Responsibility under the Constitution.** Melbourne University law review, vol.12(4), Dec. 1980: 516-542.

ELSE-MITCHELL, R. **The establishment in 1885 of the Federal Council of Australasia.** Australian law journal, vol.59(11), Nov. 1985: 666-669.

Mr Justice R. Else-Mitchell comments on the history of the establishment of the Federal Council of Australasia which began with the Federal Council of Australasia Act 1885. Some reference is made to the Australian Constitutional Convention, and constitutional reform. A forerunner to matters dealt with in the Commonwealth Constitution.

GALLIGAN, Brian and UHR, John. **Australian federal democracy and the Senate.** Public law review, vol.1(4), Dec. 1990: 309-328.

LINDELL, G.J. **The Corporations and Races Powers.** Federal law review, vol.14(3), March 1984: 219-252.

TAPPERE, Chris. **New states in Australia : the nature and extent of Commonwealth power under Section 121 of the Constitution.** Federal law review, vol.17(4), Dec. 1987: 223-250.

This article considers a rarely discussed section of the Constitution, Section 121. Specifically it raises the question as to the role of a new states power in the Australian Federation and to what extent Section 121 should reach. The discussion is set against the situation in the Northern Territory where the Government (NT). was attempting to have the Territory granted statehood.

WARD, Alan. **Responsible government and recent constitutional change in Australia and New Zealand.** Adelaide law review, vol.15(2), 1993: 165-189.

Constitutional debate of recent years in Australia and New Zealand covering issues such as responsible government and the model of government which emerged in Britain, Canada, Australia and New Zealand in the 19th century. Constitutional reform to reflect responsible government is unlikely.

WINTERTON, George. **The significance of the Communist Party case.** Melbourne University law review, vol.18(3), 1992: 630-658.

Historical and political background to the Communist Party case and the Communist Party Dissolution Act - High Court decision to invalidate the Act seen to be most important High Court decision ever - judiciary and not the legislature must determine the existence of "constitutional facts".

## CONSTITUTIONAL CHANGE

### Books and Official Reports

AUSTRALIA. Parliament. Joint Committee on Constitutional Review.

**First report.** Canberra: Government Printer, 1958. PP 50/1958.

**Second report.** Canberra: Government Printer, 1959. PP 108/1959-60.

Note: First Report is contained in Second Report

AUSTRALIA. Royal Commission on the Constitution.

**Report of proceedings and minutes of evidence in five parts with index.** Canberra: Government Printer, 1927-28.

**Report of the Royal Commission on the Constitution, with appendices.** Canberra: the Government Printer, 1929. PP 161/1929-31

CONSANDINE, Peter. **The Regional Co-operative Government plan for Australia : a discussion paper.** Strathfield: Regional Co-operative Government Movement (Australia). Republican Party of Australia, 1991.

COORAY, L. J. M. **Missing dimensions.** Epping, N.S.W.: Australians for Commonsense, Freedom and Responsibility, 1988.

EVANS, Gareth. **Reform and regression in the Australian federation. Paper presented at the Royal Australian Institute of Public Administration. National Conference (1984: Perth).** In **Governing Federations: Constitution, politics, resources.** Edited by Michael WOOD; Christopher WILLIAMS and Campbell SHARMAN. Sydney: Hale & Iremonger, 1989: 40-53.

HENDERSON, Paul. **The Australian Constitution.** In **Parliament and politics in Australia: political institutions and foreign relations.** 5th edition. Richmond, Vic.: Heinemann Educational Australia, 1988: Chapter 5.

JAMES, Michael. **The constitutional challenge: essays on the Australian Constitution, constitutionalism and parliamentary practice.** Sydney: Centre for Independent Studies (Australia), 1982.

MCMILLAN, John; EVANS, Gareth and STOREY, Haddon. **Australia's Constitution: time for change.** Sydney: Law Foundation of NSW and Allen & Unwin Australia, 1983.

Northern Territory. Legislative Assembly. Sessional Committee on Constitutional Development. **Constitutional change in the 1990s : papers from the Darwin Conference 4-6 October 1992.** Darwin: Conference on Constitutional Change in the 1990s. 1992.



RUSSELL, Peter H. **The politics of frustration: the pursuit of formal constitutional change in Australia and Canada.** In **Federalism in Canada and Australia: Historical Perspectives, 1920-1988.** Edited by Bruce HODGINS et al. Peterborough, Ontario: Frost Heritage for Canadian Heritage and Development Studies Trent University, 1989: 59-85.

SNEDDEN, Billy Sir. **Contemporary Westminster. Reforming the Federal Constitution.** In **Liberals Face the Future: Essays on Australian Liberalism.** Edited by George BRANDIS; Tom HARLEY and Don MARKWELL. Melbourne: Oxford University Press, 1984: 213-231.

SALVARIS, Michael. **Public education, citizenship and constitutional reform.** Melbourne: Australian Education Union, 1995.

STONE, J. O. **White-anting the Constitution: the Constitutional Centenary Foundation.** Samuel Griffith Society Conference, Brisbane, 1994. Brisbane: Samuel Griffith Society, 1994.

TOOHEY, John Leslie. **A government of laws, and not of men?** Darwin: Conference on Constitutional Change in the 1990s, 1992.

ZINES, Leslie. **Constitutional change in the Commonwealth.** Cambridge, UK: Cambridge University Press, 1991.

All the papers in this volume were presented at the 1984 annual conference of the Royal Australian Institute of Public Administration.

## CONSTITUTIONAL CHANGE

### Articles

ALTMAN, Dennis. **Obstacles to constitutional change.** Australian quarterly, vol.51, Mar. 1979: 103-112.

ARCHER, J.R. **Reforming the Constitution.** Australian quarterly, vol.57(4), Summer 1985: 311-318.

The 1975 dismissal of the Whitlam Government caused a constitutional crisis affecting political stability and representative democracy. Since that time there has been much debate over constitutional reform, but little attention paid to solving the problems relating to the upset in democracy. This article examines those attempts that have been made to solve those problems caused by the 1975 crisis. The author comments on the complexities of constitutional reform and questions the need for a constitutional document in Australia.

BARNETT, David. **Constitutional reform: finding a better way to run the country.** Bulletin, vol.112 (5742), 23 October 1990: 44-47.

BENNETT, Arnold Sir. **Can the Constitution be amended without a referendum?** Australian law journal, vol.56, July 1982: 358-363.

BYERS, Maurice. **The Bicentenary : time for constitutional change?** Australian journal of forensic sciences, vol.20(4), July 1988: 262-272.

Since Australia's Federation the world has changed. In this article the author examines these changes. In 1986 the Australia Acts (CTH; UK) were passed which terminated the British Parliament's power over the states and over Australia. The Constitution now rests with the will of the Australian people and not with a foreign parliament. Since 1945 the Constitution has been changed three times and the author concludes that in this changing society it may be necessary to change it again in the near future.

CHUBB, Philip. **The Australian Constitution: a chance for change.** Time Australia, vol.3(20), May 1988: 14-15, 17-18.

Includes an interview with Bob Hawke.

**Constitutional Centenary Conference 1991.** Public law review, vol.2(3), Sep. 1991: 153-155.

Covers revision of the constitutional system and outlines twelve key issues to be addressed over the next decade by the Conference.

**Constitutional Centenary Conference 1991 concluding statement: a constitutional review process.** Constitutional centenary, vol.1, Apr. 1992: 7-8.

The conference was held in Sydney from 2 to 5 April 1991.

**Constitutional reform.** Reform, vol.(40), Oct. 1985: 148-152.

Recent developments in constitutional reform are discussed. They include the outcome of the 1985 Plenary Session of the Australian Constitutional Convention, the severing of residual constitutional links with Britain, and amendments to the South Australian Constitution.

**Constitutional reform.** Reform, vol.(52), Oct. 1988: 183-186.

The author examines the four proposals put to the electorate in the September 3 referendum and the first report of the Constitutional Commission, which dealt with these questions, among others.

**Constitutional reform: a thaw?** Reform, vol.27, July 1982: 78-82.

**Conventions associated with the Commonwealth Constitution.**

Australian law journal, vol.55(2), Feb. 1981: 57-58.

This article examines topics examined by constitutional conventions in Australia.

COPER, Michael. **Another chance to wrestle with the constitution.**

Australian society, vol.9(12), Dec. 1990: 7-9.

CRAVEN, Gregory. **The Kirmani case: could the Commonwealth Parliament amend the Constitution without a referendum?** Sydney law review, vol.11(1), Mar. 1986: 64-72.

CRAVEN, Gregory. **Would the abolition of the states be an alteration of the Constitution under section 128?** Federal law review, vol.18(1), 1988: 85-121.

The author discusses whether the abolition of the States could be achieved under section 128 of the Constitution (CTH). The article considers whether this power is sufficient to allow for the removal of the states.

CULLEN, Richard. **Remaking the Australian Constitution.** Current affairs bulletin, vol.68(12), May 1992: 23-28.

The process of constitutional change is inadequate. The author discusses classical federalism and the economy; other federal systems under stress; the fundamentals of Australian constitutionalism and the disadvantages of ad hoc change. He discusses the implications of a debate controlled by lawyers.

CUNLIFFE, Ian. **Facing up to the Constitution.** Directions in government, vol.6(8), Sep. 1992: 14-15.

Discusses need for changes to Australian Constitution and recommendation of the Constitutional Commission that education authorities include material on the Constitution in school curricula. Gives a history of attempts to amend the Constitution and of the four proposals to change Constitution which were defeated in 1988 referendum.

FOLEY, Kevin. **Quangos and the Australian Loan Council.** Australian journal of public administration, vol.42, Mar. 1983: 131-153.

**The foundation launch.** Constitutional centenary, vol.1(2), Sep. 1992: 18-19.

Extracts from speeches by Sir Ninian Stephen, Michael Duffy, Andrew Peacock and Joan Kirner at the launching of the Constitutional Centenary Foundation, Parliament House, Melbourne on 14 April 1992. The Constitutional Centenary Foundation is a forum to encourage Australians to discuss and review their Constitution.

GILBERT, Christopher D. **Section 15 of the Australia Acts: Constitutional change by the back door.** Queensland University of Technology law journal, vol.(5), 1989: 55-68.

GOLDSWORTHY, Jeffrey. **The High Court, implied rights and constitutional change.** Quadrant, vol.39(3), Mar. 1995: 46-54.

GOSS, Wayne. **Restoring the balance: the future of the Australian federation.** Constitutional centenary, vol.4(4), Dec. 1995: 15-18.

Speech given to a seminar hosted by the Federalism Research Centre in July 1995 which covers reform of Commonwealth-state relations, reform of federation, principle of checks and balances, principle of subsidiarity, principle of diversity, principle of competitive federalism, service delivery, federation for the 21st century and a programme of action.

HANKS, Peter. **Constitutional reform: a plague of alliteration: government: 30 days.** Australian society, vol.5(5), May. 1986: 33-34.

HANKS, Peter. **Moving towards the legislation of politics.** Law in context, vol.6(2), 1988: 80-96.

This article discusses the historical initiatives taken towards giving constitutional status to a catalogue of rights and freedoms. The author discusses the efforts of H.V. Evatt to alter the Constitution in the 1940s through to the September 1988 referendum. He discusses the proposals of the Constitutional Commission and the judiciary in relation to constitutional protection of human rights and freedoms.

HASLUCK, Paul. **Reflections on Australia's Constitution.** Quadrant, vol.37(3), Mar. 1993: 11-16.

Lecture delivered in Perth 25 November 1992 on behalf of Sir Paul Hasluck by his son Nicholas. He said the purpose of the Samuel Griffith Society was to ensure that the debate on the Constitution be an intelligent debate and that any changes should only be made after the widest range of thought and opinion has been canvassed. There should be a conservative approach to constitutional reform. He gave personal recollections of a century of change.

HAWKE, Philip. **Politicians, lawyers must be involved in constitutional change.** Australian law news, vol.20(8), Sep. 1985: 28.

Contributions by both lawyers and politicians are essential to achieve effective constitutional reform. This view was expressed by Mr. Philip Hawke, Secretary-General of the Law Council, and the Attorney-General Lionel Bowen at the 23rd Australian Legal Convention in Melbourne.

HULME, S. E. K. **The Constitution and its confused critics.** Institute of Public Affairs review, vol.45(4), 1992: 15-19.

Critically reviews current proposals to change the Constitution. Compares Australia's Constitution with Great Britain's constitutional law and United States Constitution.

HUNT, Barry. **Constitutional reform.** Reform, vol.(62), Winter 1991: 73-81.

Prominent Australians (H.C. Coombs, Kenneth Wiltshire, Adrienne Clarke, Phillip Toyne, John Ralph, Michael Coper) identify areas needing constitutional reform.

**If we wanted to review the Constitution, how would we do it?**

Constitutional centenary (supplement), vol.2(4), Oct. 1993: 1-4.

The Constitutional Centenary Foundation invites public debate on the subjects of constitutional review, directly elected Constitutional Convention, head of state composition, composition of the Convention, involvement of politicians and the aims of the Foundation.

JAMES, Michael. **Two proposals for conservative constitutional reform: paper delivered at a public seminar on the Constitution organised by the 1988 Heritage Association.** Institute of Public Affairs review, vol.42(1), May 1988: 21-24.

Supporters of limited government should go further than simply opposing the changes mooted by the Constitutional Commission and propose their own agenda of reforms.

KEARNEY, William. **Courts and constitutional review: the High Court and an implied Bill of Rights [and] the recognition of Aboriginal customary laws.** *Legislative studies*, vol.9(2), Autumn 1995: 7-11.

High Court and an implied bill of rights - whether it is desirable to entrench the protection of individual and democratic rights in Australian Constitution - recent High Court decisions have expressed that certain provisions of the Constitution imply the existence of certain individual rights - recognition of Aboriginal customary laws in a Northern Territory Constitution.

KENNETT, Jeff. **The future of federalism.** *Constitutional centenary*, vol.4(4), Dec. 1995: 12-15.

Edited version of a speech given to the Menzies Research Centre, August 1995 which covers the future of Australia, constitutional reform, the impact of information technology on the economy and society, key reforms that should be debated and reform of Commonwealth-state relations.

KERR, Sir John. **Bicentennial: new monuments: do we need a new Constitution?** *Quadrant*, vol.31(1/2), Jan. 1987: 9-14.

Kerr comments on the book, **Australia's Constitution: Time for Change?**, (co-authored by Senator Gareth Evans). The industrial relations field is at the very heart of political and economic affairs both in relation to constitutional reform and the current economic crisis. Specific constitutional reform is needed to enable the current economic crisis to be handled.

LEE, H.P. **Reforming the Australian Constitution: the frozen continent refuses to thaw.** *Public law*, Winter 1988: 535-546.

LUMB, Darrell. **Elected conventions and constitutional change.** *Policy*, vol.9(4), Summer 1993: 43-44.

Constitutional change should be initiated in an elected constitutional convention. Discusses Australian and American precedents, conventions for initiating change and features of an Australian constitutional convention.

LUMB, Richard D. **The Australian Constitutional Convention - report on constitutional conventions.** *Australian current law*, 1980: AT50-AT52.

LUMB, R.D. **The bicentenary of Australian constitutionalism: the evolution of rules of constitutional change.** *University of Queensland law journal*, vol.15(1), 1988: 3-32.

The bicentenary of Australia was celebrated during 1988. This is an appropriate time to place in perspective the constitutional developments which have taken place during the preceding two hundred years, culminating in the enactment by the Australian and British Parliaments in 1985-86 of the Australia Acts.

LUMB, R. D. **The external affairs power and constitutional reform.**

Australian law journal, vol.62(9), Sept. 1988: 679-689.

The decision of the High Court in the *Lemonthyme* case upholding the reasoning of the majority in the *Tasmanian Dam* case, has once again drawn attention to the far-reaching scope of the external affairs power and to the effect which the expansive interpretation of that power by the High Court has had on the traditional division of power between the Commonwealth and the States. This article explores the decision and assesses the need to reform the external affairs power.

LUMB, Richard D. **Methods of constitutional revision in the federal sphere: an elected Constitutional Convention?** University of Western

Australia law review, vol.22(1), July 1992: 52-71.

An elected convention would overcome the paucity of constitutional reform by fostering greater participation in the process and reducing the dominance of the Federal Government.

MACINTYRE, Stuart. **The next battle: keeping the advertising agencies out.** Australian society, May 1991: 9-10.

Report of the Constitutional Conference, Sydney, 1991.

MACPHEE, Ian. **Challenges for 21st century Australia: politics, economics and constitutional reform.** Griffith law review, vol.3(2), Dec. 1994: 245-267.

Discusses problems with federalism, a model for regional government, transition towards regional government, evolution of the industrial relations system and its relationship to micro-economic reform.

**Major constitutional reviews in Australia 1927-1988.** Constitutional centenary, vol.2 (5), Dec. 1993: 17-18.

Features of four wide-ranging reviews of the Commonwealth Constitution since federation; Royal Commission on the Constitution 1927-29; Joint Committee on Constitutional Review 1956-59; Australian Constitutional Convention 1973-1985; and the Constitutional Commission 1985-88.

MASON, Sir Anthony. **Sir Anthony Mason at Corowa.** Constitutional centenary, vol.1(2), Sep. 1992: 1.

An edited version of the address by the Chief Justice to the Federation Dinner held on 1 August 1992 to mark the 99th anniversary of the Corowa Conference.

MCMILLAN, John. **Constitutional reform in Australia.** Papers on Parliament, vol.13, Nov. 1991: 63-77.

Examines whether Australia's Constitution contains defects that can be corrected only by formal constitutional amendment and if so, the approach that should be adopted for achieving reform.

MORGAN, Hugh. **The Australian Constitution: a living document.** Verbatim report, vol.1(9/10), Nov. 1992: 254-259.

Speech at the inaugural conference of the Samuel Griffith Society, Melbourne, 25 July 1992.

NEATE, Graeme. **Aborigines and Torres Strait Islanders and the Australian Constitution.** Aboriginal law bulletin, vol.2(37), Apr. 1989: 10-12.

**The re-establishment of the Inter State Commission in 1984.** Australian law journal, vol.59(1), Jan. 1985: 1-4.

A brief history of the role and development of the Inter-State Commission played in legislative and constitutional reform in Australia.

RUSSELL, Peter H. **The politics of frustration: the pursuit of formal constitutional change in Australia and Canada.** Australian Canadian studies, vol.6(1), 1988: 3-32.

RUSSELL, Peter H. **Mega constitutional politics: Canada's agony, Australia's warning.** Quadrant, vol.38(10), Oct. 1994: 15-21.

RYDON, Joan. **What prospects for constitutional change?** CIS policy report, vol.4(6), Dec. 1988: 16-18.

RYDON, Joan. **Australian constitutional reform.** Round table, vol.308, Oct. 1988: 351-359.

SAUNDERS, Cheryl. **Constitutional reform by 2001.** Australian quarterly, vol.64(3), Spring 1992: 241-253.

Discusses the history of formal constitutional change in Australia, the implications of constitutional amendment procedures, the referendum process, faults of the Constitution and argues that Australian people should be more involved in identifying problems needing constitutional change.

SAUNDERS, Cheryl. **Making best use of the constitutional decade.** Constitutional centenary, vol.1, Apr. 1992: 12-14.

SAUNDERS, Cheryl. **The Australian experience with constitutional review.** Australian quarterly, vol.66(3), Spring 1994: 49-66.

Discusses the Australian experience with constitutional amendment and broad based constitutional review and the record of constitutional change.

SAUNDERS, Cheryl. **Constitutional change: then and now.** Sydney papers, vol.6(3), Winter 1994: 110-119.

Address to The Sydney Institute on 24 May 1994 by the Director of the Centre for Comparative Constitutional Studies with an evaluation of the work of the constitutional conventions that led to federation alongside present day moves for constitutional change.



SAUNDERS, Cheryl. **People power. Part 2 of a series on Greening the Constitution.** Environment South Australia, vol.4(4), Oct. 1995: 22-23.

SAWER, Geoffrey. **The Whitlam revolution in Australian federalism - promise, possibilities and performance.** Melbourne University law review, vol.10(3), June 1976: 315-329.

This is the tenth Allen Hope Southey Memorial lecture delivered on 10 October 1975 by Geoffrey Sawer, in which he examines some of the initiatives of the Whitlam Government in the area of constitutional reform.

SAWER, Geoffrey. **Amending Australia's Constitution.** Review, vol.2, May 1982: 6-11.

SHARMAN, Campbell. **Changing the Constitution: the politics of government self-interest.** Canberra bulletin of public administration, no.55, June 1988: 11-17.

Previous attempts to change the Constitution have indicated the government's desire to protect its own executive powers. In this article the four proposals of the upcoming referendum are examined in order to discover their true function.

STARKE, J. G. **The failure of the Bicentennial Referendum to amend the Constitution, 3 September 1988.** Australian law journal, vol.62(12), Dec. 1988: 976-978.

Of the forty-two proposals put to referendum since 1901 only eight have succeeded. In light of this the author maintains that it is not surprising that the four proposals contained in the September referendum failed. The author questions the necessity of these particular changes to the Constitution and outlines the reasons for the failure of the "yes" case.

STEPHEN, Sir Ninian. **The constitutional decade.** Constitutional centenary, vol.1, Apr. 1992: 16.

STEPHEN, Sir Ninian. **Our demotic Constitution.** Australian law journal, vol.68(10), Oct. 1994: 706-711.

An address given on the occasion of the inaugural and eponymous lecture at the University of Newcastle Law School on 10 March, 1993.

THOMAS, Ken. **Could this be Australia's new Constitution?** Australian business monthly, Nov. 1992: 66-72.

Ken Thomas's plan for better government in Australia based on his publication "Regional government: a four-year plan for restructure under a modern Australian Constitution" - decentralisation into 37 regions instead of states and territories - lower cost and better quality government - new voting mechanisms.

TURNER, Geoff. **Consensus betrayed: lessons from the 1959 Joint Committee on Constitutional Review.** Australian journal of politics and history, vol.39(2), 1993: 184-196.

Lessons for current politicians from failure of 1959 report of Federal Parliament's Joint Committee on Constitutional Review. Covers recommended changes to Constitution including amendments to section 128 and section 51, concurrent legislative powers between two chambers of Parliament, opposition to report and politicisation of Committee's role. Concludes that to review Constitution thoroughly an overhaul of parliamentary parties, the states and various political forces is needed to ensure success.

WHITLAM, E. G. **Bicentenary - time for constitutional change.** Australian journal of forensic sciences, vol.20(4), July 1988: 273-281.

This article is concerned with the Constitutional Commission and the need for reforms in the Constitution. The author discusses areas such as changes in defamation, company and securities legislation and the problem of unfair elections and length of parliamentary terms. He defends the Constitutional Commission stating that it has sought public participation and has received over 4000 submissions concerning the Constitution. He also believes that the triennial and bicameral systems of government have broken down and constitutional changes are needed.

WILTSHIRE, Kenneth. **The directions of constitutional change : implications for the public sector.** Australian journal of public administration, vol.55(3), Sep. 1996: 90-96.

Two categories of constitutional change - change in the economy and society at large - globalisation and regionalisation - political causes of change.

WINTERTON, George. **Constitutional reform: some thoughts on possible amendments.** Quadrant, vol.32(9), Sept. 1988: 20-23.

WINTERTON, George. **The significance of the Communist Party case.** Melbourne University law review, vol.18(3), 1992: 630-658.

Historical and political background to the Communist Party case and the Communist Party Dissolution Act - High Court decision to invalidate the Act seen to be most important High Court decision ever - judiciary and not the legislature must determine the existence of "constitutional facts".

WINTERTON, George. **Constitutional reform.** Quadrant, vol.39(12), Dec. 1995: 51-52.

Discusses reforms needed for the Australian Constitution, which include federal financial relations, and proposes a Bill of Rights enacted by legislation rather than by entrenchment in a Constitution. Other issues include the republic, strengthening responsible government, the need for new reserve powers, the recall of Parliament at the request of members and reform of State Constitutions.

WOOD, Karen. **Fixed term parliaments.** Oracle, 1983: 19-25.

WHITLAM, Gough. **The machinery of democracy. Edited version of the University of Adelaide Foundation Lecture for 1983.** Lumen, 31 May 1983: 6-8.

## AUSTRALIAN CONSTITUTIONAL CONVENTIONS

### Books and Official Reports

AUSTRALIA. Convention of representatives of the Commonwealth and State Parliaments on proposed alteration of the Commonwealth Constitution, Canberra 24 November to 2 December 1942. **Record of proceedings**. Canberra: Commonwealth Government Printer, 1943.

AUSTRALIAN CONSTITUTIONAL CONVENTION.

**Minutes of proceedings and official record of debates of the Australian Constitutional Convention held in the Legislative Assembly Chamber, Parliament House, Sydney, 3 -7 September, 1973.** Sydney, NSW: Government Printer, 1974.

**Proceedings of the Australian Constitutional Convention and Standing Committee Reports, Melbourne, 24-26 September, 1975.** Melbourne, Vic: Government Printer, 1975.

**Minutes of proceedings and official record of debates and Second Report of Standing Committee D of the Australian Constitutional Convention, Wrest Point, Hobart, 27-29 October, 1976.**

**Proceedings of the Australian Constitutional Convention and Standing Committee Reports, Perth, 26-28 July, 1978.** Perth, WA: Government Printer, 1978.

**Proceedings of the Australian Constitutional Convention, Adelaide, 26-29 April 1983.**

**Vol.1. Official record of debates and biographical notes.**

**Vol.2. Standing Committee D Reports.** Adelaide, SA: Government Printer, South Australia, 1983.

**Proceedings of the Australian Constitutional Convention, Brisbane, 29 July - 1 August 1985.**

**Vol. 1. Official record of debates and biographical notes.**

**Vol. 2. Standing Committee Reports.**

Brisbane, Qld: Government Printer, 1985.

## **AUSTRALIAN CONSTITUTIONAL CONVENTIONS**

### **Articles**

**Second Plenary Session of Australian Constitutional Convention, Melbourne, 24th-26th September 1975.** Australian law journal, vol.49(11), Nov. 1975: 602-604.

A brief summary of the issues which were raised at the Australian Constitutional Convention, 1975.

**Third Plenary Session of Australian Constitutional Convention, Hobart, 27-29 October 1976.** Australian law journal, vol.50(12), Dec. 1976: 611-612.

This is a brief account of this Convention, including the submission of delegates' recommendations, the composition of the Convention, and the stages in the process of constitutional amendment and review by the Convention.

**Fourth Plenary session of the Australian Constitutional Convention, Perth, 26-28 July 1978.** Australian law journal, vol.52(11), Nov. 1978: 596-600.

**Sixth Australian Constitutional Convention, 1985.** Australian law journal, vol.59(11), Nov. 1985: 641-644.

A report on the final convention held in Brisbane which is described as the end of an era of gatherings which promised so much but proved a great disappointment to the progress of constitutional reform. Some redeeming features of the Australian Constitutional Convention 1973-1985 are noted.

**Australian Constitutional Convention.** Digest of recent intergovernmental events, vol.2(3), May 1985: 80-82.

Describes major aspects of the Australian Constitutional Convention, which overall relate to fiscal powers.

DOYLE, R. **The Australian Constitutional Convention 1973-1979.** Parliamentarian, vol.61(3), July 1980: 153-158.

This article surveys efforts to review the Australian Constitution.

ELLICOTT, R.J. **The Australian Constitutional Convention.** Parliamentarian, vol.58(2), Apr. 1977: 89-96.

The Commonwealth Attorney-General reports on the main issues considered at the Constitutional Convention in Hobart, 27-29 October 1976, including simultaneous elections, retirement ages for federal judges, votes for territory electors, defamation, and family law.

LUMB, Richard D. **The Australian Constitutional Convention - report on constitutional conventions.** Australian current law, 1980: AT50-AT52.

**Major changes recommended for Australian judicial system.** Law Society bulletin, June 1978: 1.

Briefly considers the recommendations by the Judicature Committee regarding changes to the judiciary. The recommendations were debated at the Australian Constitutional Convention in July 1978.

**A major constitutional law report.** Australian law journal, vol.57(3), Mar. 1983: 127-129.

Discusses the recommendations of the Fourth Report of the Standing Committee "D" of the Australian Constitutional Convention.

**Of constitutions and courts.** Reform, vol.(28), Oct. 1982: 144-147.

Discusses the agenda items for the Constitutional Convention, comments on the issue of the integration of the court system and also comments on the issue of ministerial responsibility which arose last year.

**Reshaping the Constitution.** Australian law news, vol.18(1), Jan. 1983: 6.  
Comments on the Australian Constitutional Convention to be held in April.

SAMPFORD, C.J.G. **"Recognize and declare": an Australian experiment in codifying constitutional conventions.** Oxford journal of legal studies, vol.7(3), Winter 1987: 369-420.

Constitutional conventions are, for the most part, unwritten and this has occasionally given rise to disputes over their content and their effect. To overcome these problems in Australia there has been an attempt to incorporate all conventions into an authoritative but non-legally binding text approved by a Constitutional Convention of politicians. The writer discusses the multi-faceted, multi-functional nature of conventions. He then discusses the authority of the Constitutional Convention to codify conventions, and the likely effects of such codification. The author argues that the usefulness of conventions will be extremely limited by their codification and that a "recognized and declared" text will lack the flexibility and capacity for development of traditional conventions.

SAUNDERS, Cheryl. **Senate and supply.** Australian law journal, vol.52(3), Mar. 1978: 117-119.

Consists of notes by Dr Cheryl Saunders, University of Melbourne on the report "Senate and Supply" released by the Standing Committee D of the Australian Constitutional Convention.

SAUNDERS, Cheryl. **Australian Constitutional Convention.** Melbourne University law review, vol.13(4), Oct. 1982: 628-630.

A brief note about the Constitutional Conventions.

THOMSON, James A. **The Australian Constitutional Convention: committee reports - more food for thought.** Australian current law, 1985: 36021-36023.

A brief summary of the terms of reference on which the six committees and sub-committees of the Convention will be reporting on at the July 1985 meeting in Brisbane.

## AUSTRALIAN CONSTITUTIONAL COMMISSION

### Books and Official Reports

AUSTRALIA. Constitutional Commission. Chairman: Sir Maurice Byers.

Advisory Committee on Executive Government. **Report.** PP 303/1987

Advisory Committee on the Australian Judicial system. **Report.** PP 307/1987.

Advisory Committee on Distribution of Powers. **Report.** PP 304/1987.

Advisory Committee on Individual and Democratic Rights. **Report.** PP 306/1987.

Advisory Committee on Trade and National Economic management. **Report.** PP 309/1987.

**Australia's Constitution: time to update.** [Sydney]: Constitutional Commission, 1987.

Summarises the recommendations of the Constitutional Commission's five Advisory Committees.

**First report.** 2 vols. and summary, 1988. Canberra: AGPS, 1988. PP 96-98/1988

**Final report.** 2 vols. Canberra: AGPS, 1988. PP 229-230/1988  
Note: Appendices G-I in Vol.2 of the Final Report list the complete publications of the Constitutional Commission. They include Background Papers, Issues Papers, and the Reports of the five Advisory Committees, and the Commission's Bulletins.

**The Constitutional Commission and the 1988 referendums.** Edited by Brian GALLIGAN, and J R NETHERCOTE. Canberra: Centre for Research on Federal Financial Relations and Royal Australian Institute of Public Administration (ACT Division), 1989.



## AUSTRALIAN CONSTITUTIONAL COMMISSION

### Articles

**ACP says qualifications should be recognised Australia-wide.** Australian law news, vol.22(5), June 1987: 16.

The Australia-wide recognition of professional qualifications is being advocated by the Australian Council of Professionals (ACP). This proposal and the Law Council's submission to the Constitutional Commission regarding the extension of the Commonwealth's powers concerning the registration and qualification of persons in the trade and professions, is briefly discussed in this article.

**Australia's judicial system: towards constitutional change.** Law Society journal, vol.25(8), Sep. 1987: 66-67.

The Advisory Committee on the Australian Judicial System has submitted its report to the Constitutional Commission. This article discusses aspects of this report including the structure of the court system; jurisdiction; separation of powers; appointment and removal of judges; and trial by jury.

BAKER, Clifton. **Cross-vesting of jurisdiction between state and federal courts.** University of Queensland law journal, vol.14(2), May 1987: 118-135.

Proposals for cross-vesting of jurisdiction between federal and state courts were put forward by the Constitutional Commission and subsequently enacted by the Jurisdiction of Courts (Cross-Vesting) Act 1987 (CTH) and the Jurisdiction of Courts (Miscellaneous Amendments) Act 1987 (CTH). This article looks at the background to these proposals and the basic principles of the cross-vesting legislation. The author concludes that the legislation represents a delicate balancing of federal and state interests.

BLAINEY, Geoffrey. **The Bicentenary: time for constitutional change?** Australian journal of forensic sciences, vol.20 (4), July 1988: 267-272.

The author of this article believes that 1988 is a suitable year to exercise the right to seek a more effective Constitution. The proposals by the Constitutional Commission to change the Constitution under the heading "Limitations on Powers of Government" will limit the power of the Parliament and give power to the High Court, and the freedoms thus entrenched may conflict with each other. Overall, the author believes that the Commission's proposals will take away more than give.

**The Constitution and control of the economy.** Australian law journal, vol.61(1), Jan. 1987: 1-3.

Submissions have been received by the Constitutional Commission suggesting amendments to the Constitution to ensure better parliamentary control of the national economy. This short article discusses the need for constitutional amendment in this area with reference to the Issues Booklet (September 1986) of the Constitutional Commission's Advisory Committee on Trade and National Economic Management and the recommendations put forward by others such as Dr. Coombs in respect of this subject.

**Constitutional Commission.** Reform, vol.(42), Apr. 1986: 101-102.

Briefly outlines the major features of the first meeting of the Constitutional Commission, held in Sydney in January 1986. These include public submissions and treatment of consultative papers.

**Constitutional Commission.** Company director, vol.2(8), Sep. 1986: 5-6.

A brief note outlining the major terms of reference formulated by the Constitutional Commission's Trade and National Economic Advisory Committee, which are of interest to the Company Director's Association.

**The Constitutional Commission.** Canberra survey, vol.39(11), June 1986: 1-7.

This edition of the Canberra survey looks at the aims and objectives of the Constitutional Commission which was established in December 1985. Included is a discussion on the composition of the Commission members, its terms of reference, the main issues to be covered by the various advisory committees, and specifically the 'court' concerns of the judiciary committee, the issues to be reviewed by the committees on trade and national economic management, the distribution of powers and the executive government.

**Constitutional Commission.** Reform, vol.(44), Oct. 1986: 200-208.

The article discusses the Background and Issues Papers which have been produced by the Constitutional Commission in order to canvass arguments for and against reform of the Constitution in different areas. The Background Papers cover the following: defamation; the term of Parliament; simultaneous elections; nexus between the Senate and the House of Representatives; interchange of powers; outmoded provisions of the Constitution and qualification of members of Parliament. The Issues Papers cover the areas: individual and democratic rights; executive government; Australian federal system; distribution of powers; and trade and national economic management.

**Constitutional Commission.** *Reform*, vol.(46), Apr. 1987: 73-80.

The Constitutional Commission has produced Background Papers on: 1. deadlocks between the House of Representatives and the Senate; 2. the power of the Senate over money bills; 3. qualifications for members of Parliament; 4. local government; and 5. procedures for amending the Constitution. This article discusses these papers and the issues raised by them.

**Constitutional reform.** *Reform*, vol.(52), Oct. 1988: 183-186.

The author examines the four proposals put to the electorate in the September 3 referendum and the first report of the Constitutional Commission, which dealt with these questions, among others.

**Economic perspective on the constitutional framework.**

*Bulletin/Constitutional Commission*, vol.(1), May 1986: 3.

The concern of the Advisory Committee on Trade and National Economic Management is to review the existing constitutional framework from an economic perspective with a view to formulating suggestions for change in the management of the national economy. Three likely areas of change; 1. the division of legislative powers, 2. fiscal powers and 3. regional economic preference; are discussed here.

**First meeting of new Constitutional Commission and its advisory committees, Sydney, 31 January 1986.** *Australian law journal*, vol.60(5), May 1986: 261.

Proceedings of this meeting are outlined in this brief note, including the areas to be covered by the advisory committees.

HANKS, Peter. **Wrestling with the Constitution.** *Australian society*, vol.5(8), Aug. 1986: 17-20.

The Constitutional Commission and its five advisory committees are attempting to design a new constitution for the 1988 bi-centennial celebrations. This article firstly looks at the ideal possibilities for the new constitution including the question of 1. the federal system and the maintenance of state rights, 2. the reform of the electoral system, 3. the creation of a Republic; and 4. the relationship between the elected institutions of government and the executive. It secondly outlines the type of product we can more realistically expect from the Constitutional Commission.

HANKS, Peter. **Australian bill of rights - round 3.** *Legal service bulletin*, vol.12(5), Oct. 1987: 225-227.

The Committee on Individual and Democratic Rights of the Constitutional Commission has released its report entitled "Individual and democratic rights" in which the Committee presented its findings on the question of protection for basic rights. The author examines and critically evaluates the contents of the report.

HARRISON, Margaret. **Whither the Family Court?** Newsletter/Australian Institute of Family Studies, vol.(18), May 1987: 24-25, 28-30.

The author discusses the life of the Family Court from its inception in 1976 through the enactment of the Family Law Act to the present day. She comments on the operation and purpose of the Court; complaints and commendations; and the findings of the Constitutional Commission in regard to the Court.

**An important study of the Australian judicial system.** Australian law journal, vol.62(1), Jan. 1988: 3-6.

The report of the Advisory Committee on the Australian Judicial System of the Constitutional Commission was released in July 1987. This note briefly surveys this report, discussing its content, significant conclusions, and recommendations, and referring to it as an elaborate, thoroughly researched document without precedent in our legal history.

**Individual and democratic rights : objectives and issues outlined.**

Bulletin/Constitutional Commission, vol.(1), May 1986: 3.

This article outlines the major objectives of the Advisory Committee on Individual and Democratic Rights under the Constitution, one of the Committees set up by the Constitutional Commission. Five major issues which concern the Committee are discussed.

JAMES, Michael. **Constitutional reform and the Bill of Rights. What's wrong with the Constitutional Commission?** Quadrant, vol.30(9), Sep. 1986: 16-20.

Michael James gives an overview of proposals for constitutional reform which have been carried in recent years, before outlining the creation and terms of reference of the Constitutional Commission, announced by Lionel Bowen, the Attorney-General.

**Judicial system under review.** Bulletin/Constitutional Commission, vol.1, May 1986: 4.

The Advisory Committee on the Australian Judicial System, set up by the Constitutional Commission, has prepared a document dealing with the issues to be considered. This article outlines the major areas dealt with in the document, including proposals for: integrated courts, integrated Australian Court of Appeal, cross-vesting of jurisdiction, separate systems of courts and Family Court of Australia.

**Judicial system under scrutiny in review of our Constitution.** Australian law news, vol.21(10), Nov. 1986: 24-25.

One area which will be under review by the Constitutional Commission is the judicial system. In response to this the Law Council's Constitutional Law Council is preparing submissions. Their main areas of concern are outlined in this article.

LINDELL, G. J. **Constitutional Commission: the Advisory Committee on the Distribution of Powers : a personal account.** Canberra bulletin of public administration, no.55, June 1988: 18-21.

The author of this article is a member of the Committee on the Distribution of Powers which is one of five advisory committees to the Constitutional Commission. He examines the Committee's composition, recommendations, procedures, problems and the future of the movement for constitutional reform in Australia.

**Major review of the Constitution.** Bulletin/Constitutional Commission, vol.1, May. 1986: 1.

The formation of the Constitutional Commission was announced on 19 December 1985, following a proposal for a major review of the Commonwealth Constitution. This article names the chairman and members of the Commission, and the areas to be reviewed by each advisory committee.

NEAL, David. **Trial by jury.** Australian society, vol.6(11), Nov. 1987: 16-17.

The concept of trial by jury has been the subject of controversy of late as a result of the Murphy and Chamberlain trials and the inquiry by the Constitutional Commission. The author of this brief article raises points which have to be considered in this issue, and argues for a guarantee in the Constitution for trial by jury.

**The new Constitutional Commission.** Australian law journal, vol.60(2), Feb. 1986: 60-62.

This article discusses the structure and operation of the new Constitutional Commission which has been formed to inquire into and report on the revision of the Australian Constitution. The decision to form the Commission resulted from the final meeting of the Australian Constitutional Convention.

**Of constitutions and courts.** Reform, vol.(28), Oct. 1982: 144-147.

Discusses the agenda items for the Constitutional Convention, comments on the issue of the integration of the court system and also comments on the issue of ministerial responsibility which arose last year.

**Proposed amendment to the "copyrights" power.** Copyright reporter, vol.5(5), Nov. 1987: 12-15.

The Trade and National Economic Management Committee of the Australian Constitutional Commission has recently released a report in which it recommends that section 51(xviii) of the Constitution be amended to reflect modern developments in copyright law. This proposal is examined.

**Proposed integration of the Family Court with the Federal Court of Australia.** Australian law journal, vol.61(5), May 1987: 209-211.

The Australian Judicial System Advisory Committee of the Constitutional Commission, in a report issued in February 1987, put forward proposals concerning the organisation and structure of the Family Court. These proposals are examined and the conclusion drawn that the full consequences of any proposals should be carefully investigated before proceeding with the implementation of any recommendations.

**Reforming the constitution.** Reform, vol.(43), July 1986: 135-136.

The Constitutional Commission, established by the federal government in January 1986 is currently considering the adoption of six proposals which deal with defamation laws, an increase in the term of federal Parliament, referral of powers, the 'nexus' requirement, qualifications of MPs and outmoded provisions. These are summarised in this brief article.

**A review of the way powers are distributed between governments.**

Bulletin/Constitutional Commission, vol.(1), May 1986: 2.

The Constitutional Commission has set up five advisory committees. This article describes the issues to be looked at by the Distribution of Powers of Advisory Committee and outlines the five terms of reference which will govern its inquiries.

**Roles of the Queen, Governor-General and Ministers.**

Bulletin/Constitutional Commission, vol.(1), May. 1986: 2.

This article looks at the six areas to be reviewed by the Advisory Committee on Executive Government, one of the Committees set up by the Constitutional Commission.

THOMSON, James A. **Amending the Australian Constitution: another attempt.** Australian current law, Apr. 1986: 36025-36027.

Describes the major features of the newly established Constitutional Commission. The Commission is to inquire into and report on the revision of the Australian Constitution.

TOMASIC, Roman. **Industrial and democratic rights in the bureaucratic state.** Legal service bulletin, vol.12(1), Feb. 1987: 7-9.

The Constitutional Commission's Advisory Committee on Industrial and Democratic Rights is at present conducting hearings and calling for submissions. The author looks at the process of constitutional reform and contends that consideration must be given to the social, economic and political structures of Australian society. He calls for an institutional framework which is capable of providing a means of enforcing or applying rights, which he maintains at present are lost behind the barrier put up by democratic structures.

WORTHINGTON, Terry. **President's message.** Law society bulletin, vol.8(7), Aug. 1986: 205-206.

The author refers to a number of the ninety-six issues before the Law Society (SA) which are being considered by the Australian Judicial System Committee advising the Constitutional Commission. These include, an integrated court system, an integrated intermediate appellate court, cross vesting of jurisdiction and a number of issues concerning the High Court of Australia. These submissions are expected to have a significant impact on the future administration and delivery of justice in Australia.

ZINES, Leslie. **Reviewing the constitution.** Australian law journal, vol.61(9), Sep. 1987: 530-539.

The Constitutional Commission is currently examining basic issues relating to the amendment of the Constitution. The author, in a paper presented at the 24th Australian Legal Convention, discusses some of the issues which have been raised before the Commission and its committees, including the structure of government, limitations on governmental power, individual and democratic rights, the financial system and the judicial system.

## **REFERENDUMS**

### **Books and Official Reports**

**The Constitutional Commission and the 1988 referendums.** Edited by Brian GALLIGAN and J.R NETHERCOTE. Canberra: Centre for Research on Federal Financial Relations and Royal Australian Institute of Public Administration (ACT Division), 1989.

COORAY, L. J. M. **The Hawke government's referendum proposals and the Constitution.** Freedom and Responsibility. Epping: Australians for Commonsense, 1988.

KIRBY, M. D. **H. V. Evatt: libertarian warrior. Herbert Vere Evatt Memorial Address (1st: 1991 ).** In **Seeing Red: the Communist Party Dissolution Act and Referendum 1951: Lessons for Constitutional Reform.** Sydney: Evatt Foundation, 1992: 1-22.

PAUL, J.B. **Constitutional amendment - Australia's experience.** In **The pieces of politics.** Edited by Richard LUCY. Melbourne: Macmillan, 1983: 257-88.

PAUL, J. B. **The 1944 Referendum.** In **Samuel Griffith Society Conference (2nd: 1993: Melbourne) Proceedings.** Melbourne: Samuel Griffith Society, 1993: 225-262.

RICHARDSON, J. E. **Reform of the Constitution: the referendums and Constitutional Convention.** In **Labor and the Constitution, 1972-1975: essays and commentaries on the constitutional controversies of the Whitlam years in Australian government.** Edited by Gareth EVANS. Melbourne: Heinemann, 1977: 76-101.



## REFERENDUMS

### Articles

AITKIN, Don. **How our MPs should mould public opinion: politics. Public support for referendum proposals.** Bulletin, 29 May 1984. 38-40.

BENNETT, Scott. **The 1967 referendum.** Australian aboriginal studies, vol.2, 1985: 26-31.

BOWEN, Lionel. **Government, Opposition put their cases for and against proposals: the Yes Case.** Australian law news, vol.23(7), Aug. 1988: 21-22.

The four questions proposed for the September 3, 1988 referendum are discussed by the Attorney-General. Mr Bowen argues that the proposals do not involve any attempt to centralise the power of the government; in fact, these proposals will provide extra rights and freedoms for our society. The four questions are discussed individually.

BRENNAN, Frank. **The 1988 referendum: a lost opportunity for an Australian declaration on religious freedom.** Australasian Catholic record, vol.69(2), Apr. 1992: 205-216.

CAMPBELL, Enid. **Changing the Constitution - past and future: Southey Memorial Lecture 1988.** Melbourne University law review, vol.17(1), June 1989: 1-23.

Campbell examines the reasons why the success rate of referendums for constitutional change is relatively low, and considers whether any lessons have been learned from this record. Twenty-three of the forty-two proposals have been to enlarge the legislative powers of the Commonwealth. The desirability of maintaining public funding of official Yes/No cases is questioned, and other suggestions as to how the conduct of constitutional referendums should be governed are highlighted.

CARR, Cecil. **Constitutional recognition for local government.** Canberra survey, vol.41(16), Aug. 1988: 1-6.

Question three of the Federal Referendum deals with the constitutional recognition of local government. The Liberal & National Party Coalition opposes this proposed recognition. The author examines the question from the point of view of local government in an attempt to rebut the arguments put forward by the Coalition.

**Constitutional reform.** Reform, vol.(52), Oct. 1988: 183-186.

The author examines the four proposals put to the electorate in the September 3 referendum and the first report of the Constitutional Commission, which dealt with these questions, among others.

EVANS, Gareth. **The "machinery of government" constitutional referendum bills.** *Australian law journal*, vol.57(12), Dec. 1983: 690-700.

EVANS, Gareth. **Referendum proposals: a reply to Professor Lumb. (Lumb, R. D. Referenda proposals; in v.37(4), Summer 1984).** *Institute of Public Affairs review*, vol.38(3), Spring. 1984: 141-144.

FORD, Lindsay R. **The constitutional referendums - for better or for worse?** *Law Institute journal*, vol.62(9), Sep. 1988: 840-842.

GALLIGAN, Brian. **The 1988 referendums and Australia's record on constitutional change.** *Parliamentary affairs*, vol.43(4), Oct. 1990: 497-506.

Of the forty two amendments put to the Australian people via the referendum procedure to change the Constitution, only eight have been passed. Four proposals were put forward to change the Constitution in a 1988 referendum, all of which were defeated. The author examines the 1988 referendums from political and historical perspectives and compares the absence of constitutional change in Australia with other countries.

GRIFFIN-FOLEY, Bridget. **'Four more points than Moses': Dr. H. V. Evatt, the press and the 1944 referendum.** *Labour history*, vol.68, May. 1995: 63-79.

HAWKE, Bob. **Keeping the Constitution relevant. The 1988 referendum question on local government.** *Local government bulletin*, vol.43(6), July. 1988: 11-14.

HENNINGHAM, Bill and BARRETT, Chris. **Australia rejects recognition by the Constitution of local government.** *Local government bulletin*, vol.43(9), Oct. 1988: 6,8.

HUTCHISON, Jenny. **The constitutional referendums: has the Opposition misjudged the electorate?** *Canberra survey*, vol.41(10), May 1988: 2-8.

This article outlines the Government's proposals to alter the Constitution by referendum. The four Bills deal with parliamentary terms; fair elections; local government recognition in the Constitution; and fundamental rights and freedoms. The wording of the proposals to be put to the voters is given. The National Party states that it opposes these Bills because they will undermine the Senate; give more power to Canberra; not give meaningful recognition to local government; and lead to problems of interpretation. The Liberal Party has also opposed the referendum. The Australian Newspoll indicates that there is public support for the proposals.

JUDDERY, Bruce. **The Liberals' 'yes' men. The referendum on four year parliamentary terms has active business support in contrast to the Liberal 'no' vote campaign.** Australian business, vol.8(29), June 1988: 29-30.

KIRBY, M. D. **H V Evatt, the Anti Communist Referendum and liberty in Australia. Based on paper delivered to Conference on the Life and Work of Dr H. V. Evatt (1990: Bond University).** Australian Bar review, vol.7(2), Mar. 1991: 93-120.

KYLE, Peter. **Last chance for proper recognition. The 1988 referendum question on local government.** Local government bulletin, vol.43(6), July. 1988: 8-10.

LUMB, Richard D. **Professor Lumb replies to Gareth Evans: Referendum proposals: a reply to Professor Lumb. (Evans, G. Referenda proposals: a reply to Professor Lumb in v.38(3), Spring 1984).** Institute of Public Affairs review, vol.38(3), Spring 1984: 144-145.

LUMB, Richard D. **Referenda proposals.** Institute of Public Affairs review, vol.37, Summer 1984: 196-200.

LUXTON, Nick. **The frozen continent: the failure of constitutional amendment proposals.** Ormond Papers, vol.10, 1993: 143-153.

MARTIN, A. W. **Mr Menzies' anticommunism.** Quadrant, vol.40(5), May 1996: 47-56.

**Negative results of the December 1984 referenda to amend the Constitution: current topics.** Australian law journal, vol.59(4), Apr. 1985: 195-196.

NURICK, John. **The constitutional referendums.** Clear thinking, vol.28, July 1988: 1-5.

O'KEEFE, Barry. **The foundation of democracy. The 1988 referendum question on local government.** Local government bulletin, vol.43(6), July 1988: 14-18.

POWELL, Graeme. **Bruce, Latham and the 1926 industrial powers referendum.** ANU historical journal, vol.14, 1979: 20-36.

PRINCE, E. J. G. **Towards national railway planning by the Commonwealth Government: defence considerations and the constitutional referenda of 1911 and 1913.** Australian journal of politics and history, vol.22, 1976: 62-73.

REITH, Peter. **Government, Opposition put their cases for and against proposals : the No case.** Australian law news, vol.23(7), Aug. 1988: 23-25.

Mr Reith, the Shadow Attorney-General(CTH). argues strongly against the four questions in the September 3, 1988 referendum. He rejects the apparent harmlessness of the proposed changes to the Constitution and states that the referendum is a confidence trick to change the balance of government power in a dramatic way. The proposals, if passed, will weaken the Senate and the power of the individual states. Each question is examined and rejected.

RYDON, Joan. **Constitutional change and referendums.** Politics, vol.12, Nov. 1979: 93-97.

RYDON, Joan. **Referendums in Australia: a study of the literature.** Reference Australia, vol.5, Feb. 1990: 32-44.

SAUNDERS, Cheryl. **Changing the Constitution: the three referendum amendments of 1977.** Australian law journal, vol.51, Aug. 1977: 508-510.

SAUNDERS, Cheryl. **The Australian experience with constitutional review.** Australian quarterly, vol.66(3), Spring 1994: 49-66.

Discusses the Australian experience with constitutional amendment and broad based constitutional review and the record of constitutional change.

SHARMAN, Campbell. **Referendum puffery.** Australian quarterly, vol.56(1), Autumn 1984: 20-29.

Governments are usually in the business of institutional change for their own health and welfare rather than ours. Accordingly it is reasonable to regard any proposal for constitutional change with some scepticism - this includes the five abortive referendums in February 1984. It may be in both our interest and the Government's to regard Sen. Evans' pleas for constitutional reform as we would television commercials - occasionally entertaining but driven by a basic desire to sell the sponsor's product irrespective of its basic merits.

STONE, John. **Proposed constitutional changes threaten our way of life. Hawke government's four Referendum Bills.** National Outlook, vol.20, June 1988: 8.

**Towards constitutional recognition of local government. Collection of articles** Locgov Digest, vol.14, 2. 1988: 2-9.

WARDEN, Ian. **Political review.** Australian quarterly, vol.49, Sep. 1977: 106-116.