

Introduction

The Hon Sir Anthony Mason

On 2 December 2016, I welcomed participants to a conference held in honour of Michael Coper,¹ the long-serving Dean of the ANU College of Law and before that a distinguished Professor of Constitutional Law. Many of the papers delivered at that conference are now published in this collection.

I have known Michael for 47 years and in all his capacities over the years. So I shall take this opportunity, as a friend, to say something about him and his achievements, without, I trust, stealing too much of the thunder of John Williams.²

Sir John Latham said: ‘When I die section 92 will be found written on my heart’.³ In Michael’s case, s 92 was written on his T-shirt, a fashion which struck me as quite remarkable, even if it did not feature on the catwalk. Michael sat through the argument in the *North Eastern Dairy Case*,⁴ a s 92 case, wearing that T-shirt under a business shirt and tie, thereby complying with Sir Garfield Barwick’s edict that all males entering the public gallery of the High Court should wear a tie. To that end, Sir Garfield armed the police officer in attendance at the old Courthouse in Taylor Square with a selection of his old discarded ties from which the wearer of an open-necked shirt would be invited to make a choice. It was a difficult choice because Sir Garfield was no fashion plate. Of course, the practice terminated when T-shirts came into fashion – you can’t wear a tie with a T-shirt. I should correct that statement – you can, but if you do, you don’t look like a future Professor of Constitutional Law, even less a Law Dean.

When Michael was at UNSW I asked him from time to time to recommend an Associate which he did on at least three occasions. One of them, Brian Opeskin, chaired a session at the conference. Two of the speakers were my former Associates, Justice Gageler and Andrew Bell SC. In Part I of this book, Justice Gageler, who is an alumnus of the ANU and was counsel in *Betfair*,⁵ explains to us the tortured history of s 92.

Michael was appointed to the revived but moribund Inter-State Commission. The Commission enjoyed the unusual distinction of dying twice. Michael was in a position to administer the last rites on the occasion of its second death.⁶ Michael was also a member of a Committee of the Constitutional Commission.

1 ‘New Ways Forward: Reform and Renewal in Constitutional Interpretation and Legal Education’ (Conference in Honour of Michael Coper, University House, Australian National University, Canberra, 2 December 2016), <<https://law.anu.edu.au/event/conference/new-ways-forward>>.

2 See Prologue.

3 Announcement, ‘The Chief Justice of the High Court: Retirement of Sir John Latham’ (1952) 26 *Australian Law Journal* 2, 2.

4 *North Eastern Dairy Co Ltd v Dairy Industry Authority of New South Wales* (1975) 134 CLR 559.

5 *Betfair Pty Ltd v Western Australia* (2008) 234 CLR 418.

6 Michael Coper, ‘The Second Coming of the Fourth Arm: The Role and Functions of the Inter-State Commission’ (1989) 63 *Australian Law Journal* 731.

This is a preview. Not all pages are shown.