

FORUM

THE 1998 CONSTITUTIONAL CONVENTION: AN EXPERIMENT IN POPULAR REFORM[†]

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FOREWORD

The object of *Forum* is to encourage thoughtful and intelligent debate on issues relevant to the law. Vigorous argument and analysis of current affairs is for the most part impossible in the general media, and it is hoped that the provision of a separate arena such as *Forum*, devoted to discussion of public issues by expert commentators, will promote better awareness and understanding of such issues within academic, professional, judicial and other circles.

It would not be farfetched to reflect that, with the sole exception of the dismissal of the Whitlam government in 1975, the 1998 Constitutional Convention aroused more public interest in our Constitution and the nature of our statehood than any other single event since Federation. This is of little surprise given what was being discussed: fundamental changes to both the Constitution and our head of state. Yet it may be said that the interest of the community was provoked by something more than that. The 10 days of debate and deliberation in Old Parliament House during February *involved* the people of Australia. One very real reason for this captivation may have been that ordinary

[†] References in this reprint to the Constitutional Convention, *Transcript of Proceedings*, are to pages in the *Report of the Constitutional Convention*, Old Parliament House Canberra, 2-13 February 1998, AGPS, vols 3 and 4.

* Editor, General Issue Vol 21(3) and *Forum*.

people (and not merely extraordinary politicians) were themselves *involved* in the Convention. The Convention concluded amidst considerable euphoria that was part its own and part that of the community at large. There was a proposal for a republic and it was promised to be put to referendum.

What, then, of the "People's Convention"? It is sometimes said that a Constitution is an ongoing process and not a single event. Yet it is quite possible that a single event in the life of a Constitution can affect it greatly, as well as tell us much about how it is, or should be, an ongoing process. There lies the inspiration for this *Forum*: at once an analysis of the substantive constitutional outcomes of the 1998 Convention, as well as an evaluation of the event itself. An essential part of evaluating the Convention requires that its proposals are critiqued. However, an assessment of the Convention is not complete without analysis of its proceedings, its structure and, with hindsight, the merit and utility of the concept of conventions. This edition of *Forum* pays close attention to all of these issues in an effort to inform current debate on constitutional reform while at the same time evaluating the Convention as a vehicle for such reform. Furthermore, this *Forum* aims to serve as a unique record of Convention experiences, with six of fourteen authors having attended as delegates and numerous others closely involved in the proceedings.

I am indebted and grateful to Professor George Winterton for his enthusiasm, friendship and guidance throughout this project. His dedication to his work on matters of such great import is truly inspiring. Professor Winterton also wrote the leading article in which he endeavoured to consider as many of the issues raised by other authors as was possible in the limited space. I am obliged to Lynn Hoggard for her technical knowledge and to the members of the Editorial Board for their assistance in all aspects of this publication. *Forum* epitomises the goal of this Journal to be topical, incisive and useful. I sincerely hope that this edition of *Forum* succeeds in each of these respects and that the reader enjoys the debate and discussion it contains.