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UNITED NATIONS ASSOCIATION OF AUSTRALIA

VICTORIAN DIVISION

INAUGURAL ALAN MISSEN MEMORIAL LECTURE

WEDNESDAY 10 NOVEMBER 1986, MELBOURNE

TWO PILGRIMS FOR HUMAN RIGHTS - ALAN MISSEN & LIONEL MURPHY

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The Hon. Justice Michael Kirby, CMG
President, Court of Appeal, Sydney

*Victrix causa deis placuit
sed victa Catoni**

A SAD YEAR

One of the many advantages of Nature's change of seasons is that it led man to divide continuous time into years. In three weeks we turn the year, by the convention of our calendar. For people who have suffered death in the year, the beckoning New Year cannot come quickly enough. It becomes the close of a psychological chapter. One hopes that bright and good things lie ahead. Good for ourselves and for humanity.

Until 1986, my life was largely spared of death. But this year, I have suffered the death of four singular friends. Two

of them, my grandmother and sister-in-law I will not speak of, for their lives are in the private zone. Two, Alan Missen and Lionel Murphy participated in the public life of our country. They were also good friends of mine. I felt close to them both. As I hope to show, they were both (in somewhat different ways) champions of human rights. It is fitting that we should meet on Human Rights Day to remember the life of Alan Missen. Fitting too is a reflection on Lionel Murphy's contribution to human rights.

I will speak mostly of Alan Missen. This is, after all, the inaugural lecture in a series named to perpetuate his memory. In any case, I have written elsewhere of Lionel Murphy, as lawyer and man.¹ But the reference to their lives, in counterpoint, serves to bring out the qualities of each, as I shall hope to show. It is my thesis that each of them had a passion for justice, a concern about human rights and a love of the Parliamentary institution. And each was involved in similar human rights issues: tackling them from different angles and perspectives. Each had personal characteristics which were at once admirable and, at times, infuriating. In death, we can set aside political differences and worldly controversies - for in death we are all one, when our restless energies are stilled.

Alan Missen is, by every estimate, a great loss to the Parliament of our country. Lionel Murphy made a unique and special contribution to Parliament and the judiciary. Each was courageous. Each was controversial and for that reason, perhaps, each was denied the highest public office to which talent and dedication to public life probably directed him. Each suffered a serious reversal of health. When they died,

both Alan Missen and Lionel Murphy drew remarkable crowds to their memorial services. Words, unusually sincere for such public occasions, were spoken in their praise. Each leaves important monuments from which the next generation of this country must derive lessons. Each was blessed with a loving and talented wife and many true friends.

It would be normal on an occasion such as this to speak on some mighty topic of the day. That is what Alan Missen and Lionel Murphy would have done. Topics there are, suitable and apt for a series such as this. If ever there was a series which should be the lectures of gadflies, one named for Alan Missen should attract a swarm. If he were here, I am sure he would be speaking of the growing concentration of media ownership in Australia - with its consequences for variety of opinion in our democracy. Lionel Murphy would have tackled the same issue from a different facet of the diamond: the growing power of multi-national corporations in our country. Or they might have spoken of the Australia Card - and the suggestion that it could alter the relationship between authority and the individual. Each was a passionate individualist. The implications for individualism of the growing power of data banks concerned both of them. Or, certainly Alan Missen would have thundered against last week's statement by the Federal Attorney-General that the Government was considering abandoning the annual reports under the Freedom of Information Act to cut costs and the ominous warnings about the cost of the legislation.

I choose to speak of none of these topics. Indeed, I do not plan to speak of specific issues at all, unless indirectly. Instead, I propose to speak of the lives of these two men - and

especially Alan Missen, hoping to derive from their preoccupations, instruction for the body politic. In part, I take this course as an indulgence which will be permitted to the inaugural lecturer: reflecting as he necessarily does on the still vivid memory of the person memorialised. In part, the course is dictated by my retreat into judicial office which necessitates the avoidance of unnecessary extra-curial controversies. In part, it is a course dictated by the love and respect I still feel strongly for both men. Only by speaking of these things do we come to terms with the fact that we will not see them again. They will not telephone. There will be no chastening letters from them. Their public voice - in Parliament and in the Court - is stilled.

PARLIAMENT

Both Alan Missen and Lionel Murphy were significant Parliamentary men. Each was a Senator. Each had a strong opinion of the role of the Senate in our democracy. Each was highly respected in that place.

Reflecting on the speeches made in tribute to Alan Missen in Parliament, Andrew Peacock said they were the finest he could recall.² And certainly they were warm, and ungrudging in Alan Missen's case. He was, as the Prime Minister said, an outstanding Parliamentarian.³ Various speakers suggested that although a fine Parliamentarian, Alan Missen was a poor politician. It was even said that Alan would have agreed with this assessment.⁴ I dispute that contention. It depends upon a stereotyped idea of what politics is about. Ultimately, I assert, it is about ideas. Ideas can be achieved through high executive and judicial office. But, at least in the case of

remarkable members, they can also profoundly affect national life by their doings as Parliamentarians.

Lionel Murphy's career was in this sense more conventional. He worked within the constraints of Cabinet solidarity and Labor caucus requirements, which Alan Missen would have found oppressive.⁵ But the warmth of the tributes paid to Alan Missen demonstrated the regard which he commanded across parties and in both Chambers of the Federal legislature. He was, as Senator Peter Baume described him, one of the "small class of institutional Senators ... who served Parliament foremost".⁶ At the end of each session he would distribute his gloomy reports, generally critical of his colleagues on both sides. Like many, I used to receive these reports. They were a burr under the saddle of Parliament, which is now sadly missing.⁷

Lionel Murphy played a great part in the growth of the power of the modern Senate - especially by the development of the Committee system, in which Alan Missen's triumphant attention to detail brought such rich rewards. Some have even blamed Lionel Murphy for the Senatorial pretension which culminated, ultimately, in the delay to Supply in November 1975. It was said, at that time, and often since, that Senator Missen opposed what he regarded as this misuse of the adventitious Opposition Senate majority.⁸ It was claimed that he would not have voted against Supply. Interestingly, Mr Griffiths suggested that friendships in Federal Parliament had not been what they used to be before 1975.⁹ For all that - and possibly because of his personal stand - Alan Missen's friendships transcended party loyalties. Gareth Evans pointed

out that Senator Missen's notion of a "good Senate man" was one who perceived the proper role of the Senate and, ultimately, its limited function, in symbiosis with the People's House.¹⁰ In important constitutional proprieties, Alan Missen was rock solid.¹¹ He realised that our polity operates as much on conventions and traditions which must be respected as upon the letter of our Constitution.

INTERNATIONAL PERSPECTIVE

In the memorial service for Lionel Murphy, I said that his international perspective made him unique amongst Australian judges. This was demonstrated in many ways: his appearance as Attorney-General at the World Court over French nuclear tests and the frequent citation of developing international law, in his judgments. Alan Missen, too, was an internationalist. The greatest interval of time I spent with him was at an international conference in Rome. It concerned the social impact of information technology. What a privilege it was to spend Roman hours in his company.

His last speech was, as Senator Chaney has pointed out, appropriate: it was on the plight of refugees in the world.¹² He never took a narrow and provincial view of his role as a member of the Australian Parliament. He constantly badgered Ministers - as a kind of Parliamentary conscience - concerning the plight of individuals, groups and races of people suffering in this world. His interests were universal. They varied from the position in El Salvador¹³; the position of the minority Tamils in Sri Lanka¹⁴; the burden of Afghan refugees (he was the Patron of the Australian Committee for Afghan refugees); the plight of the Turkish minority in Bulgaria¹⁵; the problems

of the Ukranian refugees; and the special burden of the Black majority in South Africa.¹⁶ He travelled to Africa with Mr. Young¹⁷ and then went South where he earned the respect of Black spokesmen, including Bishop Tutu and Chief Buthelezi.¹⁸ His resolute and uncompromising stand on the plight of refugees in East Timor earned him the praise of Mr. Tom Uren.¹⁹ Mr. Hodgman told Parliament of the way he had led the Parliamentary delegation out of the presence of the Indonesian Ambassador, who attempted to hector them. "We are leaving", declared Alan Missen.²⁰ And leave they did.

In a world, whose size is continually diminished by fast travel, telecommunications and the problems we must face together, Alan Missen and Lionel Murphy taught a vital lesson which we must all learn. I hope it will be in the forefront of our thinking during the Bicentenary. The age of narrow nationalism is over. This is one world. Another country's problems are our own.

Alan Missen practised this philosophy in many ways. He was a leading member of numerous international bodies, such as Amnesty (to which I will return) and the Westminster Group on Human Rights.²¹ He went and lectured to the House of Commons Committee on the virtues of freedom of information. It is said that this lecture drew a small crowd in that place. In Canada, his work on the scrutiny of bills became a model which was acknowledged in the Canadian Parliament in a statement made by the Honourable John M. Godfrey to the Canadian Senate on 22 April 1986. Out of the first Commonwealth Conference on Delegated Legislation in Canberra, in October 1980, conceived and managed by Alan Missen, grew Canadian Parliamentary

reforms. In the Canadian Senate, tribute was paid to the energy flowing from the conference and to the memorial to Alan Missen's work in Canada constituted by the enlarged functions of the Joint Committee on Regulations and Statutory Instruments.²² As Senator Tate put it, Alan Missen became the hero and the model of reform in other countries.²³

HUMAN RIGHTS

Both Lionel Murphy and Alan Missen were deeply concerned about human rights. Each endeavoured in his public life to translate this concern into action. In both cases, it went beyond individual instances. Each tried to develop into institutional arrangements - that being the typical way of our people. Each supported general legislation for the better protection of human rights. Each urged the implementation of the International Covenant on Civil and Political Rights.²⁴

Alan Missen's life was a consistent and uncompromising quest for civil liberties.²⁵ He fought against the Communist Party dissolution legislation and thereby became an inspiration to the young Liberals of the 1950s. Many of them paid tribute to that inspiration and to his defence of liberalism in a difficult time.²⁶ He took a leading part in numerous important libertarian causes, as for example for the abolition of the death penalty, the rights of Aborigines and freedom from censorship. Barry Jones pointed out that, on most of these issues, he and Senator Missen were on the "same side to the barricades."²⁷ He also became concerned in particular cases such as the Tait case and the Ryan case. Later, in the High Court, Lionel Murphy was to give expression, frequently in dissent, to the important needs of accused persons.²⁸ Sadly, he

was soon to see their predicament from a new perspective of his own. In Government, the first legislation enacted under the Whitlam Government, with Lionel Murphy as Attorney-General, was for the abolition of the death penalty in Federal jurisdiction. On essential libertarian issues, these two men were also on the same barricade.

Alan Missen, like Lionel Murphy was a strong opponent of discrimination. Senator Shiel once told him that he thought clubs existed precisely in order to discriminate. "Trust you to say such a thing" was Alan Missen's typical response.²⁹

I do not disguise the points of difference between my two pilgrims. Alan Missen became increasingly concerned about the problem of organised crime in Australia. He saw the need for new institutions to tackle the problem. He became Deputy Chairman of the Committee on the National Crimes Authority.³⁰ I suspect that some of his views on that problem, and on the proper and effective social response to it, would have differed from those of Lionel Murphy. But Alan Missen's life was a constant quest for a compassionate and tolerant society respecting precious individuals. So was Lionel Murphy's. At Alan Missen's memorial service the hymn to the New Jerusalem rang out: singularly appropriate to a man who had quested after it.³¹ Though Lionel Murphy was an agnostic and no song other than Advance Australia was sung at his service, I suspect that he too marched to the melody, and in search of, a New Jerusalem.

AMNESTY INTERNATIONAL

Consistent with his concern for human rights and the plight of disadvantaged individuals, Alan Missen played an important function in Amnesty International. He was longtime

Chairman of the Parliamentary Group. Tribute was paid to his work in this regard by the Prime Minister³² and by many other spokesmen. A unique tribute was read onto the Parliamentary Record. He was unflinching in his efforts against injustice. He realised that the breeding ground of persistent injustice is the "shadow of silence".³³ He was unrelenting in his pursuit of individual cases, such as the Sakharov case in the Soviet Union. Compromise and expediency were, as Senator Harradine said, not part of his vocabulary.³⁴

Lionel Murphy was also concerned with prisoners and their rights. His much applauded decision in the McInnes case, concerning the right of a person to legal assistance when facing serious criminal trials, was grounded, ultimately, in the famous language of the United States Supreme Court in Gideon v Wainwright.³⁵

PARLIAMENTARY COMMITTEES

I have already mentioned Alan Missen's voracious appetite for work, his rapid absorption of detail and his concern with issues. These qualities came to the fore in his work in numerous Parliamentary committees. It is here that he built his lasting monuments. He was a member of the Joint Select Committee on the Family Law Act.³⁶ Senator Evans declared that Act to be one of his monuments.³⁷ I gather from some comments that there was ambivalence about this success.³⁸ But it certainly brought him into accord with Lionel Murphy who also quested for the removal of the bedroom snoops and the adoption of a new principle of human relationships respecting privacy, freedom and personal integrity. Senator Lewis discovered in Alan Missen's support of the Family Law Act that he was not

really a gradualist, as most of his colleagues were. He believed in the great step forward in matters of reform.³⁹ Perhaps that is why he was such a valiant supporter of the Law Reform Commission - consistent in upholding the notion that Parliament was indeed capable of enacting mighty reforms. It was in the Senate Standing Committee on Constitutional and Legal Affairs that I first came into contact with him. He was Chairman of the Committee for seven years.⁴⁰ He worked tirelessly - often with the support of political opponents - to translate reform ideas into institutional action.

Mention has already been made of Alan Missen's work as Chairman of the Standing Committee on Regulations and Ordinances. In the 80th report of that Committee, just received, the Committee recorded its sadness at Senator Missen's untimely death. It said:

"Senator Missen's commitment to the protection of personal rights and liberties from undue erosion by executive law-making, ensured that his tenure of office was an inspiration to those who followed him."⁴¹

I have already remarked that this inspiration has encouraged similar developments in Canada. Doubtless it will have its ripple effect in other Parliamentary democracies. That unique and hard working Committee addresses the unrewarding task of maintaining the supervision of the people's representatives over the Executive Government. It is the modern equivalent of the old contest between the Stuart Kings and the Parliament at Westminster. Its work is essential for our freedoms. So it is not to be unexpected that Alan Missen should play a leading part in it.

Perhaps his most important work can be seen in the major report of the Standing Committee on Constitutional and Legal Affairs on Freedom of Information. Senator Durack paid a handsome tribute to the way in which Senator Missen first interested him in this subject.⁴² It is not a subject generally endearing to Governments long in office. Alan Missen was truly even-handed in the trouble he caused the Fraser Government and the "rough time" he gave Senator Evans when he exposed what he called the "seven deadly sins of omission" in the 1981 Freedom of Information Bill.⁴³ His campaign for open government, as Neil Brown pointed out, was one of his most important contributions to public life in Australia.⁴⁴ Indeed, through his work on human rights, Amnesty and the Senate Committees ran a common theme. In shadows of ignorance and silence lurk uncorrected injustice. Democracy and a compassionate society can only flourish where inequity is exposed to the condemnatory stares of fellow citizens.

Typically enough, the first moves towards freedom of information legislation came in the early days of Senator Murphy's term as a Attorney-General. The great changes of administrative law, which Senator Missen so strongly supported in the Senate, pre-dated the Murphy years. But they received a tremendous boost by the initiatives which led to the Administrative Appeals Tribunal and the creation of the office of Ombudsman. All of these were moves to make burgeoning government more accountable to the individual. Despite their political differences, Missen and Murphy were at one in that endeavour.

PERSONAL CHARACTERISTICS

I have left to last the endearing personal qualities of these two fine servants of the people of Australia. How fortunate we were in their service. It was said of Alan Missen that he trod in the footsteps of John Stewart Mill, William Gladstone and Alfred Deakin.⁴⁵ In matters of human rights, so too did Lionel Murphy. Each was a bright beacon of liberalism. As told to Senator Puplick, Alan Missen "grew more liberal as he grew older".⁴⁶ So, I believe, it was with Lionel Murphy. Each was a gentle, intense, kind and passionate man.⁴⁷ For each tears have been shed, as their memories only deserve.⁴⁸ Each was like the prophets of old.⁴⁹ Each marched to the tune of a different drum.

I would not wish by these tributes to suggest that either of these public men was unflawed by human qualities and weaknesses. As Mr. Peacock reminded Parliament, the tributes to Alan Missen tend to paint him as a unworldly saint, whereas he loved to have a bet on horses and to follow football. At one stage there was a horse "Mizzen", whose fortunes Alan followed most closely.⁵⁰ No one would have suggested that Lionel Murphy was a saint - least of all himself. It would have offended his agnosticism to hear you speak of it. Each of these men climbed the ladder by force of personality, a surrounding aura of principle and intellectual skill, sharpened by debating. Lionel Murphy won his place in the Senate, against all odds, by a brilliant debating speech to the pre-selection committee. Alan Missen, with his formidable and highly talented wife, was a champion debator, as John Button ruefully recorded.⁵¹ Senator Chipp said that fortunately for him he was always smart enough to be on Molly Missen's side.⁵²

There was a basic difference in their personalities. Alan Missen was a loner, because he saw things differently.⁵³ This is not to say that he was not gracious and friendly. But he was a demanding friend, insistent upon high standards of integrity in himself and in his friends.⁵⁴ In the scale of megalomania and idealism, a hunger for power did not appear an important motivation for Alan Missen - at least in the estimation of his opponents.⁵⁵ This allowed him to be a demanding and insistent colleague. Indeed, according to Peter Block it was difficult to be his friend.⁵⁶ Any lapse from his perception of rectitude, and you would receive a sharp letter of rebuke.⁵⁷ Senator Puplick tells of the reproach "I see you have sold out again" with which he was greeted, doubtless after a particularly adept political compromise.⁵⁸ Even those most fullsome in their praise of him talked of his "prickly" personality. Sir John Carrick called him "my hair shirt".⁵⁹ Senator Haines said that he was the "senatorial terrier".⁶⁰ Senator Evans described him as "infuriatingly persistent".⁶¹ Senator Tate spoke of his obstinacy when he went off with the latest "bee in his bonnet".⁶²

These features of Alan Missen's personality were also reflected by the fact, that despite failing health in recent years, he never looked better than after he had had a fight, especially in the Party room.⁶³

Lionel Murphy was also something of a gadfly in his party - traditionally less tolerant of those that stray from caucus solidarity. He would also do unconventional things. Probably his visit to ASI0 - asserting the primacy of civil government, was the most memorable. He too set high store by friendships.

Perhaps he was less astringent, being more inclined to persuade people to his viewpoint by gregarious embrace and warm laughter. Perhaps he was more conscious of inevitable human fallibility.

Barry Jones said of Alan Missen that he "chose a very bad time to leave us".⁶⁴ I believe that the same can be said of Lionel Murphy. For in these hard economic times, and with our still uncertain place as a nation in this part of the world, liberal values and human rights may increasingly come under challenge. Other countries have their Bills of Rights, entrenched by constitutional guarantee to put the fundamental rules by which citizens live together above the risk of oppression by chance Parliamentary majorities. In Australia, as the recent failure of the endeavour to secure a Parliamentary Bill of Rights proves, we are long way from the legal protections enjoyed by other like Federations. We are very much dependent on our Parliamentary institutions. Only time will tell whether they will prove worthy of that trust.

CONCLUDING REFLECTIONS

What concluding reflections can be offered on the lives of these two champions of human rights who died this year and who we should remember on Human Rights Day?

First, they were considerable Parliamentary men. They made the most of elected office in the great democratic assembly of our country. A mood of spitefulness exists in Parliament nowadays. It makes me wonder, for the first time, about the desirability of Parliamentary broadcasts, despite their apparent advantage of increasing knowledge of legislative doings. Perhaps without the hoped-for audience of thousands,

some of the unseemly personal abuse would disappear from the Chamber. It has done nothing in recent months to enhance the reputation of Parliament in the eyes of the people. Somebody must tell our Representatives this. Somebody must tell them of the damage done (especially amongst the young) to the respect for democratic institutions, by small minded calumny and petty, even foul abuse. Murphy and Missen contributed notably to Parliament as a place of ideas and action. The one had to wait a long time for executive office and then enjoyed it but briefly. The other never attained it. Each developed, enhanced and extended the work of Senate Committees. But each had a clear conception of the primacy of the House of Representatives in a Parliamentary system of responsible government.

It has been said that the best of Australian life is not attracted to Parliament. Senator Harradine, reflected upon Alan Missen's insistence on going to Parliament on the eve of his death, said that it was the last place he would want to be if he were unwell. It has some inescapable features that are probably uncongenial to the most civilised people. But it has never been more important to attract to Parliament the best of our national life, in all of its variety, than today. All thoughtful citizens must support the Parliamentary idea. It is easier to support it when there are courageous Parliamentarians of principle and action. It is less easy to support it when the airwaves and newsprint are full of vindictive, petty, personal and crass vituperation.

Secondly, each of these men, in their different ways and with different emphasis, contributed notably to the protection of human rights. They did so by concern about individuals and

individual cases. But they also attended to institutional protection as well. Lionel Murphy presented the Human Rights Bill. Alan Missen took a leading part in securing the creation of the Human Rights Commission. Each saw human rights as an international endeavour in which Australia must join. In the Parliament, Alan Missen supported the World Heritage Properties Conservation Bill. In the High Court, Lionel Murphy joined the majority in the Franklin Dam case.⁶⁵

Thirdly, each of these men was an internationalist. Each was concerned about world developments. Every country was Australia's neighbour to them, in a shrinking world. We need more of this international perspective and less obsessive concern with parochial local affairs. Only by an international perspective and concern will our minds remain open to international developments and our obligation to our neighbour.

Fourthly, each was concerned at the role of the law as an agent of reform. Each was inclined to take a great leap where that was seen to be necessary - hence the common ground on matters such as the Family Law Act, the Freedom of Information Act and administrative reform.

Fifthly, each had a unique and memorable personality. In each case this is so indelibly imprinted on the minds of many that its influence will long endure. They were both strong willed, sometimes impetuous, often maddeningly persistent but thoroughly admirable bee-in-the-bonnet wearers. Ian Sinclair rightly observed that, because of the size of Parliament, and, one might add, the nature of the new media, it is difficult nowadays for individual members to stand out in Canberra today. Alan Missen did. So did Lionel Murphy. There tend to be few

votes in human rights protection. Indeed, as recent Australian experience shows, it tends to be a minefield where passionate views are held by minority groups with just enough power, in aggregate, to cause a great deal of trouble and to hold up progress. Progress is not made by hoping for it. Maddening persistence, dedication and passion are needed. It is still the case in Australia that individuals can influence human rights developments - especially in the national Parliament and in the highest Court. We were fortunate, for a period, to have had the contribution of these two men. I hope that our country will be blessed with more like them. Life in the great Parties would be more even and temperate without them. But their lives demonstrate the continuing utility of the idealist in politics. In an age of pragmatism, on both sides of politics, we need more of them.

At Alan Missen's memorial service, in the elegant 17th century language of John Bunyan, there was a clarion call to practical idealism. In their lifetime, Alan Missen and Lionel Murphy answered the call. But will those who are left, do so?

Who would true valour see,
Let him come hither;
One here will constant be,
Come wind, come weather;
There's no discouragement
Shall make him once relent
His first avow'd intent
To be a pilgrim.

FOOTNOTES

- * The winning cause pleased the Gods, but the losing one pleased Cato - Lucan, Bellum Civile, I.126.
1. M.D. Kirby, "Lionel Murphy - Jurist and Man", address at the State Memorial Service, 27 October, 1986, mimeo; M.D. Kirby, "Lionel Murphy - The Rule of Law", address at launch of book, 18 November 1986, mimeo.
 2. A. Peacock, Australia, Parliamentary Debates, House of Representatives, 8 April 1986, 1793 (hereafter H.R.)
 3. R.J. Hawke, H.R. 1783.
 4. R. Tickner, H.R. 1791, citing I. MacPhee. See also H.R. 1789.
 5. Senator Dame Margaret Guilfoyle, Australia, Parliamentary Debates, the Senate, 8 April 1986, 1404 (hereafter S).
 6. Senator P. Baume, S, 1409.
 7. Senator F. Chaney, S, 1395.
 8. B.O. Jones, H.R., 1785. See also A. Burr, H.R. 1790.
 9. A. Griffiths, H.R., 1795.
 10. Senator Evans, S, 1398.
 11. Senator A. Gietzelt, S, 1402.
 12. Senator F. Chaney, S, 1394.
 13. R. Tickner, H.R., 1791.
 14. Senator J. Button, S, 1394.
 15. R. Tickner, H.R., 1791.
 16. M.A. Burr, H.R., 1790.
 17. M.J. Young, H.R., 1790.
 18. P. Ruddock, H.R., 1792.
 19. T. Uren, H.R., 1785.
 20. M. Hodgman, H.R., 1794.

21. P. Ruddock, H.R., 1792.
22. Canada, Debates of the Senate, Official Report, 22 April 1986, 2326.
23. Senator M. Tate, S, 1404.
24. P. Ruddock, H.R., 1792.
25. The President of the Senate, S, 1393.
26. See eg A. Peacock, H.R., 1793; Senator P. Baume, S, 1408.
27. B.O. Jones, H.R., 1785.
28. See eg McInnes v The Queen (1979) 143 CLR 575, 583; Burns v The Queen (1975) 132 CLR 258, 265; Neal v The Queen (1982) 149 CLR 305, 310; Chamberlain v The Queen (1984) 153 CLR 521; (1984) 51 ALR 225.
29. Senator G. Shiel, S, 1414.
30. R.J. Hawke, H.R., 1783.
31. Senator Collard, S, 1396.
32. R.J. Hawke, H.R., 1783.
33. R. Tickner, H.R., 1792.
34. Senator B. Harradine, S, 1405.
35. 372 U.S., 335 (1963).
36. Senator F. Chaney, S, 1394.
37. Senator G.J. Evans, S, 1398.
38. See also J.W. Howard, H.R., 1784.
39. Senator Lewis, S, 1410.
40. J.W. Howard, H.R., 1784.
41. Australian Parliament, Senate Standing Committee on Regulations and Ordinances, 80th Report, 1986, 6 (para 1.13), AGPS, 1986.
42. Senator P. Durack, S, 1399.
43. Senator F. Chaney, S, 1395.

44. N.A. Brown, H.R., 1786.
45. Senator C. Puplick, S, 1400; Senator P. Baume, S, 1409.
46. Senator C. Puplick, S, 1400.
47. *ibid*, 1401.
48. Senator P. Baume, S, 1408.
49. Senator Cooney, S, 1409.
50. A. Peacock, H.R., 1793.
51. Senator J. Button, S, 1393.
52. Senator D. Chipp, S, 1397.
53. Senator Collard, S, 1396.
54. Senator P.D. Durack, S, 1399.
55. Senator G.J. Evans, S, 1397.
56. P. Block, Speech at Alan Missen's Funeral, mimeo, 1.
57. A. Peacock, H.R., 1796.
58. Senator C. Puplick, S, 1400.
59. Senator Sir John Carrick, S, 1411.
60. Senator J. Haines, S, 1406.
61. Senator G.J. Evans, S, 1397.
62. Senator M. Tate, S, 1403.
63. Senator P. Baume, S, 1408.
64. B.O. Jones, H.R., 1787.
65. Commonwealth of Australia & Anor v State of Tasmania &
Ors (1985) 158 CLR 1.