

505

AUSTRALIAN AND NEW ZEALAND ASSOCIATION  
FOR THE ADVANCEMENT OF SCIENCE  
ANZAAS SYMPOSIUM : '1984 : PREDICTION AND REALITY  
WEDNESDAY, 28 MARCH 1984

THE FUTURE IS NOT WHAT IT USED TO BE

March 1984

AUSTRALIAN AND NEW ZEALAND ASSOCIATION  
FOR THE ADVANCEMENT OF SCIENCE

ANZAAS SYMPOSIUM : '1984 : PREDICTION AND REALITY'

UNIVERSITY OF NEW SOUTH WALES

WEDNESDAY 28 MARCH 1984

THE FUTURE IS NOT WHAT IT USED-TO BE

The Hon Justice MD Kirby CMG  
Chairman of the Australian Law Reform Commission  
Chancellor of Macquarie University  
President, Law Section, ANZAAS, 1984

PLUCKING THE ENTRAILS

The future is not what it used to be. Futurology is now something of a growth industry. In this respect it is even rivalling law reform. But it will have to move fast to catch up with legal imperialism : the activities of judges and lawyers in every nook and cranny of national life.

In the good old days, as Professor Bennett reminds us, futurology was safely in very few hands. There were tried and tested methods. The civilised amongst you will remember that Julius Caesar, in another March a few years back, had great faith in future studies:

Caesar :     Go bid the priests do present sacrifice  
              And bring me their opinions of success.

The methodological procedures used may not have been perfect. But they certainly came up with the right conclusion on that occasion:

Caesar :     What say the augurers?  
Servant :    They would not have you to stir forth today  
              Plucking the entrails of an offering forth,  
              They could not find a heart within the beast.

Caes: you remember, was a typical opinionated politician. Disdaining the advice of the experts whom he paid handsomely, he insisted, pig-headedly, upon putting his own interpretation on events:

Caesar :       The Gods do this in shame of cowardice:  
                  Caesar should be a beast without a heart,  
                  If he should stay at home today for fear.

Exit Caesar. Reflect for a moment upon the self-satisfaction and feeling of bureaucratic self-righteousness that would have filled the halls of the Roman Department of Augury on that March day so many years ago. It would have been quite insufferable.

#### THE 1984 SYMPOSIUM

This symposium, in Orwell's dreaded year, promises a lively review by the modern augurers. What do they have to say?

- . Dr Pryor points to the encircling gloom about technology. No longer the salvation of mankind, we are now learning that science and technology actually present dangers and threats. But the questions a lawyers asks are whether our institutions will respond adequately to the social implications of technology. How can a lay Parliament and non-technologist judges and administrators comprehend the myriad of social changes that will come about because of science and technology? Can our institutions adapt? Will they cope?
- . Professor Hughes will draw on her experience in the World Bank. Future planning is specially fashionable where rapid economic development is sought, as in developing countries. The problems of modelling, for the purpose of giving economic advice, clearly include the variety, number and instability of the variables. Yet someone must do it. Hence the search for improved accuracy in performance.
- . Dr Valentine will elaborate the special dangers of predicting economic developments. The effects of any given variable is so contentious. Will a wage rise reduce profit and thus investment? Or will it increase consumer spending? May it do both or neither? Until we are longer in the augury business, we run the risk of doing no better than Caesar's offsideers : indeed of ten doing worse.

Ir Mercer will stress the depressing news that prediction is dangerous. In such a world, he asserts, we should all be quick on our feet. What will triumph in the end is not inflexible planning according to expected developments but the preparation for variable eventualities and a robust flexibility in adapting to whatever turns up.

Professor Bennett will reflect upon the speed of technological change. In his chosen field of computers, he will ask whether these magical instruments, with their numerous linkages, may not be the modern entrails. Will they improve human capacity to cope with large-scale data. In the case of weather forecasting, they seem to be getting better and better. But some Commonwealth drivers I know put more store on the long-range forecaster Lennox Walker than they do on Mike Bailey, with all his satellites and computers. Professor Bennett's point is that we may improve our capacity to see the future. But the future we see may not be so nice as the present. There may be problems in the loss of privacy, in the vulnerability of society and in the loss of perceived human purpose through diminished employment.

Dr Bell will examine whether predictions are any use in international politics. Given what she calls the phenomenon of 'radical surprise' is their much point in trying to predict future political developments? Radical surprise may arise from a technological breakthrough that can put one nation state in advance of another. Argentina watched with amazement the bristling Armada sailing to the Falkland Islands. Britain watched with astonishment the devastation done by the Exocet missiles. But even more 'radical surprise' can come from human personalities who strut on and off the world stage. Everyone who saw the weekend TV documentary on Germany during the Depression will marvel at the remarkable personality of Adolph Hitler. But we should reflect upon the particular danger of such an undisciplined gangster in the post-1945 world of nuclear fusion.

Professor Borrie will stress the importance of having clearly in mind developments in the population. Mortality and the birth rate are ascertainable and relatively stable figures. But will they remain so? What if science finds a great breakthrough in the treatment of various forms of cancer? What if de facto relationships or old-fashioned celibacy do take over, as the National Times gloomily predicts. We can play our computer games, as Professor Borrie says. Many of the variables will be relatively stable. But even here we have made national mistakes in Australia. No-one has been a better corrective for those mistakes than Professor Borrie himself.

Dr MacRae will look at the problem of augury from the point of view of a Federal administrator. The danger of modern augurers are that they are so scattered throughout the various Canberra temples. They might not get to Caesar in time. They may bring differing messages. One of the special enemies of progress in Australia is the Interdepartmental Committee. It normally comprises people who individually can do nothing and who collectively can agree that nothing should be done. In the business of policy, how do we bring together, compatibly, government initiatives on disarmament, foreign aid, agricultural policy and economic planning:

Finally, Professor Passmore will sum it all up. Well, I wish him good luck. As if in despair that much good will come from us, he has already given hints of the conclusions he will propound. I am only glad that judges never make up their minds in advance! But in fairness, Professor Passmore has offered little more than a framework of questions to help identify the indicators that will prove more reliable in social predictions. Business and government will continue to do it. So how can we help them to do it more often and better? That is what we are here today to consider.

#### THE LAWYERS' CONCERNS

In my humble way, in the field of the law, I ventured a few suggestions in my recent Boyer Lectures about the future of the third most unchanging profession of them all. I mean the judges. The second is the British monarchy. The first I will not deign to identify.

My comments about changes in the 800-year-old institution of the judiciary have upset some of my colleagues, one in particular north of the Tweed. But they were modest in the extreme, given the changes that are going to happen elsewhere in Australia. They included reference to the use of the new information technology by the judiciary, not only as a tool to supply data but as an instrument actually to help develop legal principles. Furthermore, the new technology will undoubtedly change the basic legal structure itself. Compensation cases and tax assessments will submit to computer handling and the law itself will be changed to maximise this potential. Judges and lawyers who think that informatics will somehow pass them by, affecting only fast train observer-drivers and Adelaide Mitsubishi car assembly workers, have another thing coming. But I will not say any more about this because the very program on the future of the judiciary is to be rebroadcast by ABC radio this week on Thursday night at 10.15 pm. Since the recent attack on my Boyer Lectures by the Judge in Queensland, they are now known as the 'controversial' Boyer Lectures. I gather that, as a consequence the book and the cassettes are selling even better.

Boringly enough, lawyers tend to be fascinated with the institutions of government. Two questions, in the present circumstances, specially concern a lawyer:

- . The first is whether we are developing again 'two nations'. Given the remarkable coincidence in our generation of nuclear physics, biotechnology and informatics, has the scientist and technologist at last gone beyond the comprehension of the ordinary man and woman. If so, how we will continue to communicate? Will the scientist and technologist be bothered? Professor Bennett is a long-time disciple of the need for the computerist to be alert to the social implications of his discipline. But he has almost been a lone voice. The dialogue between the social scientist and the physical scientist is becoming infrequent and incoherent. This is particularly true in Australia.
  
- . The second concern is whether our institutions of government can cope with the world of mature science and technology. How will Parliament, with its whips and bells and ancient procedures, with its concentration on the exciting games of party disputes, adjust to the rude necessity of law making relevant to science and technology? How will the courts adapt their rules? The rules of evidence, that admit the proof of new areas of expertise. The rules of procedure, that require juries of ordinary folk to determine complex questions of foetal blood analysis. The rules of substance that one may hope will be developed to deal with data protection and data security, with in vitro fertilisation and the multitude of other problems, the catalogue of which expands daily.

#### BUT DOES IT MATTER?

But does all this matter? Should we really be too concerned about the future? I reflected upon this on Sunday last as I looked across at Hyde Park and asked myself whether in 200 years' time the old English trees would still be there.

Last week Mr Bill Hayden, one of our most thoughtful politicians, prognosticated that Australia would become a nation of 50 million — a nation basically of Eurasians. This prediction was made in the same week as another most thoughtful Australian, Professor Geoffrey Blainey, reflected on the 'margin of tolerance' that was being tested by present levels of Asian migration. These questions require us to have at least some conception of what Australia is to be in the future. It was not until very recently that we even troubled to ask this question. There was simply no doubt but that we were British people transplanted in the South Seas. We were guarded by the British

Flee We rejoiced in British-type Parliaments and Courts. Our trade was overwhelmingly within the Empire, where it was protected. We fought in British wars. England was 'home'. Even in my day, at Fort Street High School in the 1950s in Sydney, we honoured God, served the King and saluted the Flag — the Union Jack of course!

Now, in modern multicultural Australia, all of this is changing. Yet how far should it change and in what direction? How far will the changes affect our citizens, our economy, our international relations and our administrative, political and legal institutions?

These are the things we are gathered here today to consider. I am sure it will be a stimulating and useful day. I hope its messages go forward from this band of experts and are communicated to our leaders.

But perhaps we can take comfort from the fact that whereas the soothsayer warned Caesar to beware the Ides of March and whereas the augurers, plucking the entrails could not find a heart within the beast, Caesar went forth, and became another martyr on the altar of futurology. The soothsayer and the augurers went home to a hearty meal.

I am sure there are some who would caution us to leave the future to look after itself. Others would dismiss our endeavours at prediction as discredited and doomed to failure in a world of infinite chance. At the end of this day perhaps we will know whether futurology has a future.

In that hope, I have much pleasure in opening this symposium.