TOWN OF ALBANY

VANCOUVER LECTURE 5 OCTOBER 1985

ALBANY, WESTERN AUSTRALIA

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The Hon. Justice Michael Kirby, CMG *

GEORGE VANCOUVER

There are certain obligations which attach to the delivery of a Lecture in a series such as this. The first is to acknowledge the privilege which it is to follow so many distinguished predecessors. Three Governors-General have delivered the Vancouver Lecture: Sir Paul Hasluck on the "History of King George's Sound" in 1975; Sir John Kerr on the Federal constitutional voyage in 1977 and Sir Zelman Cowen on the Comm nwealth of Nations in 1979. In between, and after, there have been lectures by distinguished Australians including Sir Charles Court (1976), Sir Mark Oliphant (1981) and Dame Roma Mitchell (1983). There is no doubt that the Lecture is now one of the most prized of the established, formal public lectures in our country. Because it takes its title from the great explorer, it has tended to encourage the lecturers, to address the history of Australia and the significance of our history for our country in a time of great social and technological change. I shall be no exception.

The second thing that must be done is to remind the listeners, once again, of the famous story of George Vancouver. It is a tale worth retelling. Particularly is it relevant because of the recent controversies that have surrounded Australia's celebration of the Bicentenary. For Vancouver was one of that hardy band of British explorers who, with more than a little help from predecessors and contempories from the Netherlands, France and other countries, opened up the Great South Land. Their courage, imagination and sense of inquisitiveness shou.d be a constant inspiration for us. Instead, there has been something of a tendency, of late, to regard our early history with embarrassment. It will be the moral of this lecture that we should look back upon the early explorers and seek from their qualities to draw the strength to face the challenges before Australia in its third century of its modern civilisation.

Vancouver's name suggests an origin of his family in the Netherlands. If this were so, it would not be in the slightest surprising; nor out of line with the remarkable contributions of the people of that small but valiant country to the history of Australia. Sir Paul Hasluck reminds us, in his Vancouver Lecture, of how different the history of this country might have been. The mapping of the south coast of what is now Western Australia was based upon information supplied to the Netherlands East India Company

by the ship Leeuwin (Lioness) in its journey of 1622 and the ship Gulden Zeepaardt (Golden Seahorse) in 1627[1]. The Leeuwin discovered Cape Leeuwin. The Gulden Zeepaardt followed the coast around the Great Australian Bight. From markings on the map used by the Gulden Zeepaardt, it appears, remarkably enough, that the coast of the south of Western Australia was first seen by this small vessel on 26 January, 1627. The links with the Netherlands go back more than 350 years.

Nearly 100 years later, a proposal was put to the Netherlands East India Company for the founding of a colony in the south tip of Western Australia. The directors of the Company in Amsterdam and the Governor-General of the East Indies in Batavia rejected the scheme.[2] How different things might have been on this continent, had they decided otherwise. Perhaps, like Canada, we would be a bi-lingual nation. The anglophonic people of the east coast would struggle with the mysterious and challenging sounds of the language of the Netherlands. But the East India Company had enough to do running a thousand Spice Islands. The interest could not be kindled to push the colonial claims further south. And so we remain English speaking - or almost!

As Sir Paul Hasluck points out, European interest in New Holland, including in this part of the continent, continued during the 18th Century. Jonathon Swift, a student of the maps that were poured over in Amsterdam, Paris and London, showed Lilliput in Gulliver's Travels as being in

the open sea to the north-west of the southern tip of "Dimen's Land". Rather unflatteringly the land of the Yahoos, isited in a later voyage of Gulliver was imagined to be off the south coast of Western Australia. I am sure there are no Yahoos here tonight.

Nearly 160 years passed after the voyages of the Leeuwin and Gulden Zeepaardt before the next Western incursion. This time it was the French. And it was the fear of the French that rekindled British interest in this part of the world, coinciding with the journeys of Captain Cook which had inspired interest in the potential of New Holland as a place for British settlement - notably settlement of unwanted convicts banished from the homeland. How many results flowed from the American revolution and the French revolution that followed it. The need to find an alternative colony to deposit the unwanted convicts of England agitated the late 18th century Sir Humphry's to consider Cook's Great South Land. This was the opportunity that the slumbering continent had been waiting for.

In 1789, the very year of the French revolution, the British Government decided to send an exploring expedition to the South Seas. The object was to add to the knowledge gained by Captain Cook. Chosen to command the expedition was Captain Henry Roberts. Chosen as second in command was Lieutenant George Vancouver.[3] Both of these officers had served under Captain Cook. Vancouver had been

born on the 22 June, 1757 in Norfolk. He was, even by 1789, a considerable navigator. He had entered the navy at the age of 13 and accompanied Cook on his second and third voyages to the Pacific (1772-5 and 1776-80). He then took a 9 year period of service in the West Indies and later answered the call to command the new expedition to the South Seas designed to head off the French. A vessel then being built was purchased. It was named the Discovery and it was fitted out under Vancouver's superintendence. In April, 1790 when the vessel was almost ready to proceed on the voyage south, news was received that the Spaniards had interfered with British commerce on the north-west coast of America. They had seized English vessels and factories and generally caused a nuisance of themselves. In the result, the Discovery was placed on active service and the proposed voyage to New Holland was postponed. The Spanish received news of the semi-mobi isation. Spain offered restitution and an acknowledgement of equal trading rights in the north-west coast of America over which, until that time, Spain had previously claimed exclusive rights.[4] Notwithstanding this conciliatory gesture, it was decided that an expedition should be sent to the west coast of America. Vancouver, who had by this time been promoted to the rank of commander, was chosen. His commission directed him to proceed forthwith to the Sandwich Islands. There he was to get instruction to proceed to explore the north-west coast of America and to

report on whether there was a possibility of water communication with the eastern side of America. It was left to him to decide in which way he would accomplish this mission. Doubtless remembering the earlier intention to explore the south western parts of New Holland, he elected to proceed via the Cape of Good Hope.

So it was that at the end of January, 1791, much delayed, Vancouver left London. He made his first sighting of Australia on the 26 August, 1791. He kept as near to the shore as possible in the hope of discovering a safe anchorage. On 28 August, 1791 he entered a fine natural harbour bestowing on it the name King George's Sound. In name of the King he took formal possession of all the country "from the land we saw north-westward ... so far as we might explore its coasts"[5] The climate was reported as temperate and agreeable. Fresh water was found to be abundant. Kangaroos, ducks and fish were not scarce. No natives were met. But a present was left as an indication friendliness to the indigenous people. A sealed bottle containing the record of the visit was also left. Later, Matthew Flinders searched for this although he could not find it.[6]

Vancouver then proceeded south of Tasmania to south island of New Zealand. He explored Dusky Sound, charting the coast line of that country, as he had part the Australian coast. He then sailed to North America by

of Taihiti and Hawaii taking possession of Chatham Island on the way. In fact he named a number of places after Chatham, then the first Lord of the Admiralty. No doubtthose days the need for the good opinion of politicians and bureaucrats was considered as important as it is in some quarters today.

Vancouver spent three seasons surveying parts of the American coast. He was the first to circumnavigate the island to which his name was later given. His surveys of the extremely complex coastline of north-west America rank with the most distinguished work of cartography ever carried out. In 1794 he was promoted post captain. He returned to England in 1795 and prepared an account of his voyage. However, he died on 10 May, 1798 before this work was completed. It was finished by his brother, John, with the aid of one of his companions. It was published in London in 1798 as a Voyage of Discovery to the North Pacific Ocean and round the World. It remains a record of an intrepid explorer, a skilled observer, a courageous navigator - a great man of his time whose name is happily linked with Australia, New Zealand and Canada.

The great city in Canada that now bears his name is a worthy memorial to remind us of his voyage of exploration and discovery. It is a good thing that the town of Albany has preserved the memory of our link with this remarkable man in this lLecture series. As it transpires, a year ago I spend a week in Vancouver, British Colombia at

the centenary celebration of the Law Society of British Columbia. By coincidence, last year was also the centenary of the Law Society of New South Wales and of the Victorian Bar. How remarkable were the lawyers of a hundred years ago who, in fledgling colonies established the foundations of private legal practice so essential for administration of justice. But how remarkable too were those who, nearly a centenary before, had opened up the oceans, chartered the continents and unknown coast lines and brought the Union Jack to this part of the world and beyond.

THE BICENTENARY

The mention of the Union Jack takes me to the Bicentenary. The celebration of the 200th anniversary of British settlement has been in the news of late. In fact, there has been more news about the Bicentenary in the last fortnight than ever before. More people now know about the Australian Bicentennial Authority than did before the events of the last weeks unfolded. Unhappily, the circumstances of this knowledge are not precisely as the Authority, or those interested in its objects, would have wished. But the events will have a beneficial consequence if they turn the attention of the Australian people to what the Bicentenary is about and what we will celebrate in 1988.

I detect a certain ambivalence about the Bicentenary which, unless cured, will create a dangerous mood of national schizophrenia in 1988. It is not much use

celebrating the 200th anniversary of British settlement on the eastern side of the Australian continent if we are embarrassed or ashamed of the circumstances that gave rise to that settlement and anxious to do everything in our power to forget about it. It would be a whole lot better, if this be our national mood, to drop the commemoration of 1788 altogether. We could choose another time. Perhaps the celebration of the very first reports of sighting of the Great South Land by European explorers. Perhaps Dirk Hartog's pewter dish. Perhaps even the explorations of the Leeuwin or Gulden Zeepaardt in 1622 and 1627. Perhaps we should just wait until the year 2,001 for the hundredth anniversary of Federation.

There are some Australians who suggest that the recollection of the circumstances of the beginning of our national life are so painful that we should not put too much emphasis upon the circumstances, lest we develop a serious case of national embarrassment or melancholia. There are, for example, those who say that, like some unwanted or unexpected child, Australia, as a British settlement, was a distinctly second best thing. We were merely the product of the loss of the American plantations - so forget it. There are others who say that 1788 is nothing much to commemorate because we have had no revolution: no glorious uprising to remember. There is no valiant assertion of fundamental rights. No charter proclaiming the rights of the people to

life, liberty and the pursuit of happiness. Our country began as the result of the deliberations in London of bureaucrats and prison officials looking for an alternative dumping ground for convicts. And the mention of convicts raises yet another source of embarrassment in some quarters. What a thing to commemorate, say some of the critics. The arrival in a far away country, under military government, of an extraordinary fleet of banished subjects, many of them in irons and most of them subject to the sternest discipline of a prison regime that would nowadays be regarded as little short of barbaric. Such an extraordinary beginning for the modern history of a continent and of a nation is remarkable, it is true. So there are observers who would prefer to find some other thing to celebrate, contemplating this small military settlement as an embarrassment and a source of national shame which we have overcome, rather than pride to recollect and memorialise.

There is another school, critical of the memory of the events of 1788. I refer to that strong strand woven in the fabric of Australian history, never far from the surface revealing itself in anti-British and anti-Imperial criticism of England. The healthy, robust sense of independence which accompanied the early convicts, jailers and early settlers (to say nothing of the Irish immigrants) encouraged a distinct scepticism about old England from the very start. That spirit is still alive in Australia.

It triumphed over the apogee of the Empire. It even survived the heady days of the Royal Tour 1954! There is a minority (generally hovering at about 23%), of republicans in Australia. For them, a great birthday party which celebrates the raising of the Union Jack is a source of mild irritation. Is it part of the colonial cringe in modern dress? Does the celebration of the First Fleet and the foundation of Sydney with the striking of the colours, invoke the anti-British sentiment never far from the surface in some quarters in Australia?

Finally, and most recently there is the argument of multi-culturalism. We are now no longer "British to our boot straps", as Mr. Menzies assured us in the 1950s. Now we are a multi-cultural society. We have more races, of greater diversity, than any country on earth, save possibly Israel. Talking about 1788, re-enacting colonial adventures, raising the Union Jack are, we are told, liable to upset the multitudes of people who have come to this country and who know no special link to the United Kingdom but want the national birthday party to concentrate on things Australian.

The various critics of the effort to use the Bicentenary to reflect upon our origins and their significance for today's Australia are, of course, entitled, in our free society, to express their point of view. But in my opinion, a celebration of 1788 which ignores or deals in whispers about our British origin is bound to cause national

schrizophrenia. Unless we celebrate our British origins, we should simply cancel the party and celebrate something else. For 1788 is about those origins or it is about nothing.

That is not to say that we should not utilise the Bicentenary to reflect upon the mistakes that have undoubtedly occurred in our relationship with the indigenous people of this continent. Vancouver at least left mirrors, trinkets and other signals of friendliness for the "Indians", as he described them, in this part of Australia. Other early arrivals were not so friendly. The record of our treatment of the indigenous people has been, until lately, a source of pain and little pride. But that is a reason for reflecting on the past, and on the mistakes of the past, not for overlooking it or glossing over it with embarrassment.

Nor is the multi-cultural ideal inconsistent with an exploration of our British origins. I believe that the adoption of multi-culturalism, in the place of the earlier heavy handed principles of White Australia and assimilation, will remain as one of the most important monuments of the Fraser administration. Mr. Fraser's steadfast adherence to the principle of a multi-cultural Australia was more important because it was espoused by a dour Scot not given to the mindless embrace of trendy theories. Increasingly, the multi-cultural ideal for modern Australia is being accepted because it is in line with the spirit of a confident, diverse society which takes pride in its variety.

I have never considered multi-culturalism incompatible with our British history or its still significant impact on Australia's institutions and national life. On the contrary, I believe that it is the self-confidence that comes to a society which boasts the blessings of the English language and core institutions which derive their strength through centuries of tradition, inherited from England, that allows Australia the adoption of multi-cultural diversity. Other countries, fearful of the loss of culture, anxious about the replacement of their language or not blessed by Parliamentary democracy, an uncorrupted public service and independent courts, would be more likely to regard the notion of variety in national life as a dangerous proposition. There is a streak of authoritarianism in most societies. It is kept under better check in the societies that derive their laws, institutions and traditions from England. Many people came to Australia precisely because we could offer them the stability of these institutions and the opportunity for personal advancement and creativity. We could promise the safety of a generally law abiding community protected by a stable constitution and defended by the Rule of Law. The people who take advantage of these undoubted blessings - rare in the world and rare in this part of the world - can, I believe, look to the way in which the modern history of Australia began and share the pride in the history of exploration and development. That it began with

British explorers is, as I have shown, partly a matter of historical accident. How easily it could have been the Portugese who settled us - they were the first Europeans to sight Australia in 1605. How readily it might have been the French, but for their preoccupation with revolution and Napoleonic adventures in Europe. How simple it would have been for the Governor-General of the Netherlands East Indies to have accepted the advice and founded a few colonies in the temperate zones to the south of New Holland. As chance would have it, they did not. Instead, a different history unfolded. It is a history without revolution and in that sense is perhaps less stirring. But it is the alternative model of history - step by step exploration, continuity of administration, gradual opening up of a continent, the planting of fundamental institutions, the spread of representative and later Parliamentary democracy, the establishment of independent courts. No significant rebellion and no civil war mar our history. To some this is a source of shame and embarrassment. To others it is a source of complacent self-satisfaction. To me it is simply the fact. We do not bring honour to our country's history by wishing away the essential Britishness of those early days following January 1788. We do a disservice to the great explorers, including Vancouver, by turning our back on those early days and the years that proceeded and followed them. We do less than justice to the remarkable administrators and citizens who built the roads, set up the court houses,

spread the administration, sent out the expeditions and gradually laid the foundations for a modern nation.

Let us by all means reflect upon the errors of our ways and especially in our relations with the Aboriginals. Let us also reflect upon the contribution to the early history of the explorers of many lands whose countrymen after the Second World War came in large numbers to contribute to multi-cultural Australia. Let us remember that in modern Australia there is a sizable minority who can never quite feel the same links with the English, their flag and the history that followed the establishment of the colonies here. But who, nonetheless can share in the pride of continuous institutions, many of them worthy of celebration not least in this century of destruction and bloodshed. But let us avoid at all costs, national schrizophrenia - celebrating in 1988 but trying to forget what 1788 was all about. There is no point in having a birthday and then forgetting what the celebration is designed to remember. Down that path lies ambivalence: intellectual and emotional contortions. I hope that the sorry events of recent weeks will lead to renewed interest in the Bicentenary. I trust that we will lift our sights from the divisions of recent days. I also hope that there will be a healthy return to reflection upon the history of our country and the lessons in that history for our third century. If we are so ashamed of the history that we would prefer to forget about it, then

let us forget about the Bicentenary altogether and wait for another event which we can celebrate with more unanimity.

THE LAW

I hope that these remarks will not be taken as an indication of complacency. They are not meant to be. Early in the life of the Australian Bicentennial Authority, it my then capacity as Chairman of the Law Reform Comission, I urged that the opportunity should be taken in 1988 to focus national attention upon the law, legal institutions and the rule of law. I was disappointed to see in a recent report[7] that these subjects have been omitted from the list of topics to provide the focus of the Bicentenary. I regard this as a mistake and I hope that, under new management, the decision will be reconsidered. Because our country began in 1788 as a prison colony it has, from the outset, had a special relationship with the law and legal institutions. The history of those institutions is itself an interesting tale. But a consideration of the improvement of our legal institutions seems inescapable, to me, in any serious reflection upon what we have achieved in 200 years, given our origins. Lord Hailsham, the Lord Chancellor of England, has said that the banner of Western countries is the Rule of Law. It is the phenomenon that links us together. It is our proud boast that we live under a government of laws not of men. It is a proud boast because this is a rare system. It is a system which we in Australia have largely derived from Britain, although we have added some features of our own.

It is a system of government and of institutions which has been sorely tested this century in grievous wars in which many brave men and women have died. It is not the boast of the majority of mankind. It is therefore a precious thing which we should be vigilant to defend and preserve. Because the Rule of Law is a particularly precious feature of Australian national life, it seems incredible to me that we can contemplate a centennial celebration of our nation's exitence without paying attention to our laws, legal institutions, the administration of justice, its strengths and defects and the health of the Rule of Law in our country. There is more than enough to study here. The pleas of the courts for reform action and the reports of Federal and State law reforming bodies, Royal Commissions, academics, editorials and humblecitizens all indicate the need for law reform. If the peculiar feature of our 200 years has been the absence of revolution and civil war and the achievement of our current position through stable institutions and orderly law making, the advantage should be taken of the 200th anniversary, to see how we are going. Do nations which (like ours) move peacefully from "precedent to precedent", have more to boast of than those who leap, with violence and bloodshed, from revolution to civil war? Never forget that it was the American revolution that produced the founding fathers of that republic, possibly the greatest

collection of political intellects seen in one place since the times of ancient Rome and Greece. Out of the ashes of their revolution blossomed the Declaration of Independence, the famous language of their Constitution, the remarkable federal idea and, in 1790, the first Ten Amendments to the Constitution which form the American Bill of Rights.

Like Canada and New Zealand, we took a different path. Two hundred years on, it is timely to ask how our achievements compare. Some would say that economically we have not fared as well, protected as we were, for the first century and a half, behind trade barriers that promised Imperial preference but sometimes inhibited our expansion.

Only in the last 50 years has Australia, like Canada, come to imitate in earnest some of the social and legal achievements of the United States. Only in this time have we embraced the idea of multi-cultural diversity in which the American republic led the way. And now, in Australia, there is much talk of our copying the notion of a Bill of Rights.

It is instructive for us to look to Canada to see the way in which they have tackled this question. In 1960, the Parliament of Canada enacted the Canadian Bill of Rights as an ordinary statute.[8] This measure did not provide explicitly that laws of Canada that conflicted with the rights and freedoms recognised in the Bill of Rights were invalid or inoperative. Instead, it provided that "every law of Canada shall, unless it is expressly declared by an Act

of the Parliament of Canada that it shall operate notwithstanding the Canadian Bill of Rights, be so construed and applied as not to abrogate, abridge or infringe or to authorise the abrogation, abridgement or infringement of any of the rights or freedoms herein recognised and declared".[9] The Supreme Court of Canada was prepared to recognise the Bill as having a special operation, not just as another Federal statute.[10] However, because of the lack of experience in and familiarity with the broad and bold language of the Bill of Rights, the Canadian judges tended to favour a restrained interpretation. This narrow interpretation has been severely criticised by scholars.[11] But it reflected a view of the role of the law and of the function of judges that almost certainly would be shared in this country.

In Canada, a further step has now been taken along the path chosen by the United States in 1790. In 1982, with the patriation of the Canadian Constitution and the substitution of the Canada Act for the British North America Act, Canada secured an entrenched and constitutional Bill of Rights. The Canadian Charter of Rights and Freedoms[12] will test the judiciary and the law in Canada. No longer will the Supreme Court of Canada be able to explain a narrow construction of fundamental rights by reference to the limited status and wording of the legislation. The entrenchment of the Charter will require a broad and

generous approach, as befits a constitution. And this will test the capacity of the judiciary of Canada to develop theories about the role of the law in a modern technological society. How much easier it is to interpret a statute on mortgages or a law on crop liens than to evaluate civil liberties against the touchstone of broad guarantees of freedom.

Reports that are coming in from Canada indicate caution on the part of the judges and lawyers there. In an address to the Canadian Bar Association Annual meeting in August, 1985, the Chief Justice of Canada, Brian Dickson, said that the role of the judiciary in reviewing legislation had been greatly increased as a result of the Charter. But whilst asserting that the courts "must not hesitate to strike down" legislation inconsistent with its provisions, he said that the judiciary "must not encroach upon the proper domain and jurisdiction of government". He urged the courts to avoid legislating:

> "Though it is inevitable that law will be created by judges in the process of resolving disputes, the courts have no business questioning the wisdom and policy of legislation beyond what is required by the Constitution. Laws not iot inconsistent with the Constitution must be upheld, no matter how wise or unwise they may appear to be.[13]"

Only now is the vital importance of judicial training and the processes of judicial appointment being fully appreciated in Canada. When you introduce Bills of Rights, and commit their intepretation to judges, you require new and different skills. Not every observer (including every Canadian observer) is happy with these developments.[14]

In 1982, Attorney-General Evans promised a major effort to review the Australian Constitution in time for the Bicentenary. The defeat of further referenda and the change of Minister appear to have dampened this bold ambition. Mr. Bowen, despairing of the failures of the Constitutional Convention made up of politicians, has proposed the idea of a citizen's commission to point the way ahead for constitutional reform. He has also indicated his intention to press on with a statutory Bill of Rights. It seems that these proposals were endorsed by Federal Cabinet this week. We can learn from the Canadian achievements. The only countries which have achieved, by peaceful means, major constitutional reforms in recent years have done so with the aid of expert commissions. I refer to Sweden and Canada. Neither has committed constitutional reform to politicians. Neither has accepted the idyllic notion of a body of Notables. Each has serviced its commission of inquiry with proper facilities of research, investigation and public consultation. Mr. Bowen's despair about the

Constitutional Convention is understandable. The achievements of the politicians' conventions have, after all, been profoundly disappointing.

If law, legal institutions, the judicary and the Rule of Law are to be included (as I would hope) in the Bicentenary, the need for a new working model to provide the ideas to stimulate a fresh look at our laws is scarcely open to question.

CONCLUSIONS

I have now completed my object. I have reminded you of the famous story of Vancouver's journey to Australia on his way to modern Canada. His journey links us with another great common law federation, which traces its core institutions and laws to Britain. That common link with Britain should not be a source of embarrassment or shame. But whatever the emotion it engenders, it is an historical fact and we would be foolish to try to wish it away.

The Bicentenary is, at last, in the news. It will be a happy outcome of the distracting events of recent weeks, if Australia and its people commence in earnest their reflection on the purpose of the celebration in 1988. For myself, I hope that this will not be a narrow evocation of provincial patriotism. That emotion has been the curse of the 20th century. In the age of nuclear fission, the microchip and biotechnology, we must all of us be looking to the international character of human life in the next century.

That is not to say that we should not look backwards to our achievements and failings. And if we do look backwards, the importance of our British inheritance will continue to dazzle our eyes. With all their many faults, the core institutions which remain the abiding feature of our inheritance from Britain, are proper sources of national satisfaction.

And I hope that the Bicentenary, redirected, will include in its program a reflection on the law and legal institutions in the century ahead. Our links with Canada, which Vancouver first forged, should give us the clue. Constitutional reform, the provision of a charter of rights and law reform should be on the agenda for the Bicentenary. For ultimately, the quality of a society is profoundly influenced by its legal culture. And one, like ours, that began as a prison settlement has scarcely been able to escape its importance.

* President of the Court of Appeal, Supreme Court, Sydney. Former Judge of the Federal Court of Australia and Chairman of the Australian Law Reform Commission.

1. Sir Paul Hasluck, "The History of King George's Sound", Vancouver Lecture, 1975, mimeo, 1.
2. ibid, 3.
3. J.S. Battye, Western Australia, A History from its Discovery to the Inauguration of the Commonwealth, Uni of W.A. Press, 46.
4. Battye, ibid.
5. Id, 47.
6. ibid, 48.
7. Weekend Australian, 21 September, 1985.
8. Reprinted Statutes of Canada, 1970, Appendix III.
9. ibid, s 2.
10. R. v Drybones [1970] SCR 282, (1970) 9 DLR (3d) 473.
11. B. Hovius, "The Legacy of the Supreme Court of Canada's Approach to the Canadian Bill of Rights: Prospects for the Charters" (1982) 28 McGill LJ 31.
12. Part 1 of Schedule B, Canada Act 1982, 1982, c11 (UK).
13. Chief Justice Dickson cited in Canadian Bar Association, National, September, 1985, 17.
14. Professor T. Ison, Address in Adelaide, reported The Australian, 28 August, 1985, 6.