

PRESS RELEASE

EMERGING CONSTITUTIONALISM IN EASTERN EUROPE

EMERGING CONSTITUTIONALISM IN EASTERN EUROPE

In November 1990, the President of the NSW Court of Appeal, Justice Michael Kirby called on the new President of the Constitutional Court of Hungary, Professor Dr László Sólyom (pictured, left). Justice Kirby described his visit in an address to the new Silks when they announced their appointment in the Court of Appeal in Sydney on 13 November 1990.

"I left the conference held in the Academy of Sciences building near the old Imperial Palace in Budapest. I traversed the bridge crossing the Danube at a great bend in the river. Onward the car took me into the drab streets of Pest. Eventually we reached a somewhat uninspiring building, set well back. Its only distinguishing feature was a Stalinist memorial to the working class in the forecourt. The winter sunlight fell upon the uninspiring bronze. But even the sunlight could not make it appear attractive. I was then escorted into the chambers of the President of the Constitutional Court of Hungary. Professor Sólyom told me that the building which houses the Constitutional Court was formerly the headquarters of the Communist Party of Hungary. In this way, constitutionalism is replacing the totalitarian systems which formerly existed in Eastern Europe. Rarely can it have been achieved with such vivid symbolism.

Hungary, like other States of Central and Eastern Europe did not previously have a Constitutional Court with power to strike down legislation as offending the constitution. But now the Hungarian Court has that power. I told Professor Sólyom of the foundation of the High Court of Australia and of its first great Chief Justice, Sir Samuel Griffith. In far away Hungary, Professor Sólyom and his colleagues are rebuilding the rule of law which we take for granted. They are re-establishing a judiciary completely independent of government. We, who are the heirs to the common law of England and its traditions should reflect upon

our good fortune. Each member of the legal profession, but particularly its leaders, has a part to play. In a sense we are all "Ministers of Justice", as Justice Brennan once declared".

Professor Sólyom, before his appointment to the Court, was a Professor of Law in the University of Budapest. He was a member of the Democratic Forum in the Hungarian Parliament and represented the Green Party. His interests include concern about the implications for human rights of new technological developments. He is fluent in English and German and has written on the privacy implications of computers and telecommunications in English language journals.

The social, economic and legal implications of computers and telecommunications for Central and Eastern Europe was the focus of the conference in Budapest attended by Justice Kirby. In his closing summary for the conference, Justice Kirby warned the participants of the need to see developments in informatics in the context of wider technological, political and economic changes. He cautioned against the natural concern with European identity which followed German reunification and the changes of political régimes in Eastern Europe. The need for technological and economic advances to be accompanied by legal protections for human rights was stressed by many participants in the Budapest conference. The participants included representatives from Albania, Bulgaria, Czechoslovakia, the former East Germany, Poland, Romania and Yugoslavia. There were also many representatives from Japan and North America. Justice Kirby was the sole participant from Australasia.