

## CONCLUDING REMARKS

THE HONOURABLE IAN CALLINAN, AC

Ladies and gentlemen, my last task is to conclude this conference.

In doing that, I think I first should express our appreciation for the people who organised it and have done so much to produce what I think was an absolutely outstanding conference. First, of course, is Stuart Wood. None of this would have happened as well or as smoothly as it has but for him. Next is Eddy Gisonda, who organises all the speakers. And then there are the energetic and very competent assistants and supporters, including Kristy Millen, Marina Antonellis, and Xavier Boffa. On behalf of the Society, I would like to thank them again for everything that they have done.

There has been something of a practice of you allowing me some license to comment on the conference's speakers in my concluding remarks. I have to say that I am finding it increasingly difficult to do that in any useful way, and that is so not only because of the quality of the speakers, but also because of the completeness of their analyses and the outstanding knowledge and depth that they bring to their papers.

However, there are just a few matters — and I will comment on them only briefly because I know a lot of people have to catch aeroplanes — but again, as I say, you indulge me in allowing me to comment, so naturally I select some of the topics that are of particular interest to me. And I think of two immediately, and they are topics, I think, that inevitably intersect. They are the topic of free speech and the topic of a 'third voice', or an 'indigenous voice'.

Now, both obviously intersect because when we talk about an indigenous voice, we are talking about a matter of race. What could be more incendiary than race? But the way that things are at present and, in particular, the ominous presence of section 18C of the *Racial Discrimination Act 1975* (Cth), makes people a little fearful of embarking on that topic.

I do not want to repeat what our other speakers have said, but could I just say this about an indigenous voice: I have enormous concerns about what that involves. I rather suspect that it will include another monolith on the Lake in Canberra, a supporting bureaucracy, agencies in every state — probably in every region, urban and remote. Are there going to be two houses? How are they going to be elected? Will the Electoral Commission to supervise the elections? Leaving aside entirely the trite and irrelevant matter of cost. What will its shape be? Will it be, as Alfred Deakin predicted in respect of the Senate, a party house? Will it have a First People's first minister, kind of a de facto indigenous prime minister? Will there be ministers? Will there be a minister for local government, for example, to see what matters might concern local government and also concern indigenous people? There are all sorts of questions, and we have a million miles to go socially, politically, and legally in relation to this issue.

One thing that concerns me is the doctrine of 'legitimate expectation' imported into the law — it really was the invention of Lord Denning in the United Kingdom that was taken up by the High Court in the case of *Minister of State for Immigration and Ethnic Affairs v Teoh* — that even matters that are not matters of legal obligation have to be taken into account by a decision maker because those who might be affected by a decision have a legitimate expectation that they will be taken into account. And then, of course, that raises debate as to the way

in which they will be taken into account, whether it will be sufficient, and whether all the formalities have been taken into account. Now that is in a legal context, but in a social and political context once the indigenous voice speaks what will follow, I would have thought, will be an expectation that it will be heeded and adopted. And these are all enormous questions, and, frankly, nothing that I have seen myself — and I do not pretend to have any expertise in this area — answers those questions.

Ladies and gentlemen, thank you very much for your attendance and for your constant attentiveness to the great speakers we have had.

Perhaps I should say one other thing — I would be remiss if I did not do it — but I thought, with no disrespect to the other speakers, that Geoffrey Blainey's speech last night was an absolute highlight. What grace, charm, and erudition, and indeed modesty, were contained in that. He really is a living monument to Australia. I talked about section 18C a moment ago and the concern, almost a fear, of talking on that topic. Geoffrey Blainey, of course, has been absolutely fearless, and on occasions he has had to suffer for it. I never thought, when I was a student in university, that a great scholar such as Geoffrey Blainey would be criticised and subjected to all sorts of prejudice for accuracy and telling the truth. Telling, indeed, what other people have said in other contexts, telling inconvenient truths.

Thank you, ladies and gentlemen. I look forward to seeing you at our next conference.