

GOVERNOR-GENERAL'S PRIZE ESSAY COMPETITION

2006 QUESTIONS

1. What are the issues of public policy involved in government regulation of religious symbols or dress within Australian schools? Who should determine the limits (if any) of such regulation, and where should the boundary of such regulation lie? Should the position differ as between government and non-government schools?
2. Does our system of government promote representation of minority interests in public offices? Should Indigenous Australians or any other minority be reserved a proportion of seats in the Commonwealth and/or State and Territory Parliaments? If so, in what manner, and how should this be effected? How should Indigenous Australians be defined for this purpose?
3. The Report of the ACT Bill of Rights Consultative Committee, *Towards an ACT Human Rights Act* (May 2003) recommended that an ACT Human Rights Act include economic, social and cultural rights, but the ACT Legislative Assembly did not ultimately include them in the *Human Rights Act* 2004. Comment on both the Committee's view and the Legislative Assembly's decision. Should a Commonwealth Bill of Rights include economic, social and cultural rights and, if so, which rights? How should such rights be enforced?
4. Professor Brian Galligan has commented that:
"By strengthening the deliberative capacity of the processes of governance, the Senate and its committees can be seen to enhance the democratic and federal qualities required of legislators in a federal democracy."
A Federal Republic: Australia's Constitutional System of Government (1995), 89. Emphasis added.

Do you agree? In what ways has (or arguably has) the Senate done so? Should the constitutional position of the Senate be reformed? If so, how?
5. Should provision be made for evaluating allegations of misbehaviour or incapacity by Australian federal judges (including High Court justices)? If so, discuss the appropriate provision and any constitutional issues arising in regard to it. If not, how should such allegations be dealt with in the future?
6. In *Al-Kateb v Godwin* (2004) 219 CLR 562 at 621 [165] Kirby J remarked:
"I do not doubt that if Australia were faced with challenges of war today, this Court, strengthened by the post-War decision in the Communist Party Case (1951) 83 CLR 1 and other cases since, would approach the matter differently than it did in the decisions which McHugh J has cited with apparent approval. Respectfully, I regard them as of doubtful authority in the light of legal developments that occurred after they were written".

Do you agree? Discuss the cases and the subsequent "legal developments" referred to. *Should* those cases be decided differently today?

**Entries close by Friday, 6 October, 2006. For more information visit
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