

8 July 2011



2011 Governor-General's Undergraduate Essay Competition Questions

1. As a matter of constitutional law and convention, to what extent is the Government of the Commonwealth "responsible" to the Australian Senate?
2. In response to the seminal modern decision on s 92 of the Constitution, *Cole v Whitfield* (1988) 165 CLR 360, Sir Garfield Barwick, former Chief Justice of Australia, referred to it as "terrible tosh". [NSW] *Bar News* 1989. Do you agree? Why?
3. In *Airlines of NSW Pty Ltd v New South Wales (No. 2)* (1965) 113 CLR 54, 115 Kitto J remarked:

"The Australian union is one of dual federalism, and until the Parliament and the people see fit to change it, a true federation it must remain. This Court is entrusted with the preservation of constitutional distinctions, and it both fails in its task and exceeds its authority if it discards them, however out of touch with practical conceptions or with modern conditions they may appear to be in some or all of their applications. To import the doctrine of the American cases [on federal power to regulate intrastate commerce] into the law of the Australian Constitution would in my opinion be an error."

Do you agree? Discuss in light of the United States Supreme Court's commerce clause jurisprudence, and consider the role of "federalism" considerations in Australian constitutional interpretation.
4. "A feature of Australia's federal system is that the States have relatively large constitutionally-assigned spending responsibilities but few own-revenue sources, while the reverse is true at the Commonwealth level. The difference between the relative revenue and spending responsibilities of the Commonwealth and States is known as 'vertical fiscal imbalance' (VFI). This VFI, which has undermined the federal nature of Australia's constitutional arrangements, is a result of the High Court's interpretation of critical sections of the Constitution." Do you agree? Why?
5. Given the competence of the Commonwealth Parliament to amend the law which is applicable in pending legal proceedings, whether at first instance or on appeal, and the potential thus to facilitate an outcome consistent with the interests of the Commonwealth or its policy objectives (whether or not the Commonwealth is a party), are there any constitutional limitations on the Commonwealth Parliament in this precise regard? If any, to what extent are they sufficient?
6. Assess the implications for Australian federal elections were it to adopt the United Kingdom's first past the post voting system. Who would it be likely to benefit and be a detriment to?
7. Should Australia continue to have compulsory voting for its federal elections, and, where it applies, in State and local elections? In your answer make reference to civic obligations and freedom. What would be the advantages and disadvantages of compulsory voting?
8. What should be the focus of the Australian Defence Force?
9. What should be Australia's nuclear future? Should we develop our own nuclear power system?
10. Critically analyse Australia's population growth and discuss both its positive and negative impacts.
11. Australia's population growth is largely due to immigration. Discuss the implication of current immigration policies on Australia's future.