

CEFA's Governor General's Undergraduate Essay Competition **2008 Questions**

Q1- On 13 February 2008 the Prime Minister of Australia, Mr Kevin Rudd, and the Opposition Leader, Mr Brendan Nelson, apologised on behalf of the Parliament of Australia to Aboriginal People who, as children, were forcibly removed from their families (the Stolen Generation). A constitutional challenge to the Commonwealth law that underpinned this practice failed in 1977. Does anything more need to be done? How would you advise the Federal Government to move forward constitutionally on the issue of apologies to indigenous Australians? (You may like to refer to similar events in other countries such as the United States and the Native Americans).

Q2 - In *Bank of New South Wales v The Commonwealth* (1948) 76 CLR 1 at 184-185, Latham CJ said that “no single power should be construed in such a way as to give the Commonwealth Parliament a universal power of legislation which would render absurd the assignment of particular carefully defined powers to that Parliament”. Over the course of the last two decades the Commonwealth Parliament has expanded its use of s 51(xx) of the Constitution to regulate matters that were traditionally regulated by the States. Has the High Court’s jurisprudence on s 51 (xx) accommodated the concerns expressed by Latham CJ? Consider how the High Court would be likely to determine the issues in the *Bank Nationalisation Case* if it were to be argued today.

Q3- On several occasions Justice Michael Kirby has referred to the High Court’s decision in *Kable v Director of Public Prosecutions* (NSW) (1996) 189 CLR 51 as a “dog that barked once”. What did Justice Kirby mean by that statement? Discuss the extent to which the principle enunciated in *Kable* still applies in contemporary constitutional jurisprudence.

Q4- The Howard Government, in the last months of its 2007 term, instigated a Northern Territory intervention strategy promoted as emergency measures to protect indigenous children from abuse with the expressed desire of better results for indigenous Australians. Has the intervention strategy improved the lives of indigenous Australians? How should the Rudd Government address Indigenous Affairs?

Q5- The United States of America has a system whereby a series of “primaries” and “caucuses” are used to select presidential candidates. Would civic participation in Australia improve if we adopted a similar system in Australia to elect the Prime Minister and State Premiers?

Q6 - The 2007 federal election resulted in a single political party, the Australian Labor Party (ALP) being in power at a federal level and in every state and territory. The Liberal Party of Australia and the National Party of Australia spoke disparagingly about the prospect of this, whilst the Australian Labor Party spoke of the progress such unity could bring. Discuss the advantages and disadvantages of having a

single political party “wall-to-wall”, and the implications for Australia’s federal system of government.

Q7- Should Australia adopt a Bill of Rights? If so, which form of Bill of Rights, in the terms of the International Covenant on Civil and Political Rights (ICCPR), would be preferable and why? Should it be a Constitutional Bill of Rights or a (Commonwealth) statutory Bill of Rights? Or should a Bill of Rights be adopted separately in each State?

Q8- What led to the defeat of the Howard Government at the 2007 general election? You may like to include economic, domestic, foreign policy, historical and/or leadership considerations in your answer.

Q9- Many Australians feel that the election of the Rudd Government in 2007 should result in substantial tax reform. Would it be beneficial to raise the Goods and Services Tax (GST) rate coupled with a corresponding decrease in income tax rates across all tax brackets? Discuss.