“Great Australian Dissents”

Gilbert + Tobin Centre of Public Law
Faculty of Law, University of New South Wales

9-10 June 2015

Call for Abstracts

Abstracts are invited for a research workshop on ‘Great Australian Dissents’ organised by Professor Andrew Lynch, Director of the Judiciary Project at the Gilbert + Tobin Centre of Public Law, University of New South Wales. The goal of the workshop is to debate and celebrate notable dissenting opinions produced by the judges of Australian courts.

Background – Great dissents

Although some Justices of the High Court of Australia have acquired the sobriquet of ‘Great Dissenter’, there has been no attempt to identify and analyse the ‘great’ dissenting opinions in Australian law. But the identification of an individual as a ‘Great Dissenter’ cannot simply be determined by the frequency with which he or she disagrees with the majority – certainly that was not the exclusive basis upon which that title was first attached to Justice Oliver Wendell Holmes of the United States Supreme Court. The opinions themselves must matter to the construction of that reputation. At the same time, focussing on opinions rather than the mythology that has built up around some individuals, reminds us that some ‘great’ dissenting opinions may in fact have been authored by judges who were only rarely found in the minority.

This event seeks to move beyond the usual focus upon individual reputation toward a consideration of the value and significance of dissenting opinions on their own terms.
The Workshop

Participants at the workshop will select a single dissenting opinion for inclusion in the pantheon of ‘Great Australian Dissents’ – and then explain the basis for their choice. This, of course, necessarily invites reflection on what quality or circumstance makes a dissent ‘great’. This may be any number of factors in isolation or combination, including: the rhetorical and logical force as a piece of legal reasoning; subsequent recognition (judicial or political) of its correctness; its emotive power as a judicial lament for the ‘error’ into which the majority has fallen; and the general importance of the issue at stake. On some occasions, all these features may be strongly present, on others only some may be. The workshop will provide an opportunity for participants to engage in amicable debate about the selections made by individuals towards the list which it will collectively produce, as well as the criteria by which a dissenting opinion is judged as ‘great’.

Three further clarifications may assist those interested in submitting an abstract:

1) The workshop will adopt a loose rather than rigid approach to the classification of dissent to enable the inclusion of opinions which are notable for the extent to which they disagree from the reasoning of the majority even if ultimately concurring in the final orders made by the court;

2) Influential and memorable dissents have emanated from the Federal Court of Australia and State Supreme Courts and abstracts on these are welcome. However, it is anticipated that most of the opinions under discussion on the program will be ones delivered in the High Court of Australia;

3) The workshop is organised by a centre of public law and accordingly we anticipate this area will be strongly represented in the abstracts selected for the final program. However, abstracts are welcome across all areas of the law.

The authors of abstracts which are accepted will be asked to prepare their full paper three weeks in advance of the workshop so that these may be circulated beforehand. Papers should be no more than 8000 words in length, including references.

Once the program is finalised, the organiser will be seeking a book contract in advance of the workshop for an edited collection of the papers.

Event details

The workshop is scheduled for Tuesday and Wednesday 9-10 June 2015 and will be held at the Faculty of Law, UNSW. A workshop dinner will be held on the evening of Tuesday 9 June.

Interstate participants will receive an economy return airfare and two nights’ accommodation at nearby Coogee Beach to enable full attendance and participation at the workshop.
Submission of Abstracts

Abstracts should be submitted to Ms Belinda McDonald at gtcentre@unsw.edu.au with the subject line ‘Great Australian Dissents’ by no later than 15 December 2014.

Please attach a file providing:

- Your name and contact details; and
- an abstract of your proposed contribution identifying the dissenting opinion you propose to discuss in your paper and indicating the reasons for this selection which you will elaborate on in the full paper (max. 350 words).

Acceptance of abstracts and the finalisation of the workshop program will be confirmed by correspondence early in the New Year.

Professor Andrew Lynch
Director, Judiciary Project
Gilbert + Tobin Centre of Public Law