

## **Governor-General's Prize – 2004**

### **QUESTIONS**

#### **Instructions to Participants:**

- Answer one question only
- Written answers should not exceed 2500 words including footnotes/endnotes
- A commonly accepted system of citation should be used to acknowledge all material consulted in preparing the written answer

#### **Questions:**

1. Describe the differences between the Australian and Canadian experience of federation. Were these structures well suited to the particular circumstances which preceded federation in each country? Have they served the countries well in the period since federation? What can each learn from the other?
2. Should the conventions of responsible government be codified, and can this be achieved effectively? Should any present reserve powers or conventions be abolished, and should any new reserve powers or conventions be introduced to enhance the operation of the existing constitutional system? Do not consider whether that system should be monarchical or republican, and do not attempt to draft a detailed code.
3. Should persons who pose a danger to the community (through the threat of commission of criminal and/or terrorist acts) or a specific person or persons be subjected to preventive detention? Should persons in prison for an offence involving violence be treated differently from others? If preventive detention were to be introduced by State legislation, how should it operate? Consider constitutional, legal and policy issues.
4. Assess the utility of the referendum in the context of Australian federal political and constitutional history. Discuss the legal and political significance of one successful constitutional referendum held under s 128 of the Constitution.
5. You are the Official Secretary to the Governor-General of Australia. The Governor-General has asked you to provide written advice about the constitutional implications of the following situation. In your advice you should anticipate what alternatives the Prime Minister and Leader of the Opposition have and how the Governor-General should act according to the applicable constitutional principles.

#### **Situation:**

The House of Representatives has 150 members who serve for a maximum term of three years. The Alliance Party has 80 members and the Progressive Party has 70. The Alliance Party undergoes a split, leading to the formation of two parties, the Conservative Party, led by the Prime Minister, and the Reform Party, led by the Foreign Minister. Realizing that she has lost her House of Representatives majority (although losing no vote in the

House), the Prime Minister advises the Governor-General to dissolve the House, which has served only two years. The ensuing general election produces the following result:

Conservative Party:	57 seats
Reform Party:	20 seats
Progressive Party:	73 seats

No party is willing to join another in coalition, or even to support a government of another party, The Progressive Party is willing to provide a Speaker; the other two parties have declined to indicate whether they are willing to support a Progressive Speaker. The House of Representatives is to meet thirty days after the return of the writs.

Australia faces economic crisis and the threat of terrorism which demand urgent action. The leader of the Conservative Party has advised the Governor-General to dissolve the House again and that, in any event, she should remain Prime Minister at least until the House meets. As leader of the largest party, the Progressive leader (Leader of the Opposition) insists that he should be commissioned as Prime Minister until the House meets and has publicly opposed a second dissolution of the House.