A CONSTITUTION OF OPENNESS, ACCESSIBILITY AND SHARED DISCOURSE?

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I PUTTING OUR FAITH IN PREAMBLES

It was to be expected that, when republic referendum time came in 1999, there would be a release of hopes that had nothing directly to do with whether Australia was to become a republic. Some of them – in particular, the concept of a Bill of Rights – were old enthusiasms. Others were contemporary policy issues that might prove to have strange effects if embedded into a constitution. What would 'reconciliation' or 'multiculturalism' mean a hundred years from now? Would some future Quick and Garran explain that the words 'Australians are free to be proud of their country'[1] came from distaste for black armband history, and that scorn for political correctness was the origin of the proposed provision that the equal dignity of all Australians must not be 'infringed by prejudice or fashion or ideology nor invoked against achievement'?[2] (Given human nature, this was perhaps one of the most unreal of the hopes.) It was nearing the turn of the millennium and in a season of mild preamble-mania there seemed to be a hope that if new words were put at the top of the *Australian Constitution* ('Constitution'), they might produce new social magic – even if in rather bizarre juxtaposition with the words that are there already. (In the general muddle and haste, the old words 'lords spiritual and temporal' and 'Her Majesty's ships of war' were left in, but no new words were added saying that Australia had become a republic.)

There seemed to be two new sets of hopes about what the Constitution might now be expected to do. One of them was inspirational: as if a constitution was a national anthem, there was a move to strengthen national zeal by giving the Constitution 'more poetry'. (In fact the words of most national anthems are

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1 The 'Howard-Murray Preamble': Constitution Alteration (Preamble) 1999 (Cth) Exposure Draft, released 25 March 1999. See also Gervase Greene, 'Mateship Raises Ire, Custodianship the Big Issue: Outcry on Premable', *The Age* (Melbourne), 24 March 1999, 1. The 'Howard-Murray Preamble' is reproduced in this issue of the *University of New South Wales Law Journal*: see Anne Winckel, 'A 21st Century Constitutional Preamble – An Opportunity for Unity rather than Partisan Politics' (2001) 24 *University of New South Wales Law Journal* 636, 649.

2 Ibid.

usually extremely bad poetry – and often express sentiments that have lasted well beyond their use-by date; it's repetition and the tune that matter.) Les Murray, as unofficial poet laureate, was consulted when the Prime Minister began to draw up *his* preamble; other writers, invited or uninvited, tried their hands. Expectations were high among some concerned citizens because they believed that the grand, opening sentences of the United States *Declaration of Independence* were part of the preamble of the *Constitution of the United States of America* ('US Constitution'). There was some quoting, in particular of the phrase 'life, liberty and the pursuit of happiness',[3] as if Lockean wisdom and Virginian enlightened optimism might land on our shores. There was scarcely any recognition that the US Constitution got by with only a 52 word mission statement devoted entirely to political matters in which the only poetry lay in the opening three words – 'We the people'[4] – even if these, in their historical resonance, are the finest republican poetry of them all. The final draft of the proposed (and, fortunately, rejected) preamble avoided poetry, but not portentousness. ('Since time immemorial', 'our vast island-continent', 'great enrichment', 'honoured for their ancient and continuing cultures', along with entirely meaningless phrases such as 'the equal sovereignty of all its citizens'.)

The second set of hopes, often overlapping the first, had nothing in particular to do with the kind of political statements that usually get into constitutions. They were not concerned with defining the system of government (something constitutions, at least in liberal-democratic societies, are usually supposed to do). A main concern was to define Australia as a society, rather than as a polity, with some touches of history as well (including the negative history of excluding recognition of the prior occupation of Australia, not even acknowledging this occupation more diplomatically as 'custodianship'). Or, even, in some ways ('mateship', for example), as a folk, or *Volk*, as the Germans say. Providing an aspirational, *Volk*ish description of Australia could be seen as a way of 'holding Australians together'. (The phrase 'holding Australians together' is a bit too taut and nervy for my taste. 'Social integration' is better, but better still, as I argued in my Barton Lecture this year,[5] is the phrase 'social harmony'.)

In fact, as the draft preambles began to trickle into the newspapers, most of them were pre-emptive bids to impose particular norms about what it means to be truly Australian. Yet, as I said in my Barton Lecture, attempts at significantly normative definitions of a society work against social harmony. If true social harmony can come only once division within society is accepted, and negotiated, national definitions that go beyond outlining the basics of a liberal-democratic polity and a pluralist society are necessarily disharmonious. If the Constitution has implicit folkish definitions of what it means to be Australian, then where does that put those of us who, although citizens, don't match the specifications?

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3 *Declaration of Independence.*

4 *Constitution of the United States of America* Preamble.

5 Revised and published as Donald Horne, 'Something Fishy in the Mainstream' in Helen Irving (ed), *Unity and Diversity: A National Conversation* (2001). (A transcript of the lecture in its first form is also available at <http://www.abc.net.au/rn/sunspec/stories/s24865.htm> at 4 October 2001.)

II CONSTITUTIONS AND SOCIAL HARMONY

Societies can be 'held together' by all manner of means. In *Looking for Leadership: Australia in the Howard Years*,[6] I have listed as among the means that can help ensure 'holding together': physical force (hanging, flogging, torturing, etc); social force (suppression by prohibitions and bans, fabricating enormous public lies, bullying people into conformity and decorum); fears of war or invasion or other international perils; the force of organised religious or secular faith and prevailing superstitions; fear of economic disadvantage or deprivation; flags, national anthems, national songs and chants, ceremonies and rituals, pledges, iconic landscapes, legends, particularly legends of 'national character', history stories some of them complete with heroes, intermittent mass enthusiasms (usually on television and often sports-induced); feelings of communality in the way people deal with each other; and readings of a society and its history by intellectuals, scholars and artists (although, in any lively society, these will also be divergent and questioning). I also put down an active civil society and a workable degree of the 'civil trust' that Martin Krygier wrote about in *Between Fear and Hope*.[7] But some of the 'holding together' school have found these kinds of civil considerations 'over-cerebral'. Faced with Ferdinand Tönnies' distinction between the civil *Gesellschaft* and the folkish *Gemeinschaft*, they have preferred to go down the *Gemeinschaft*.

I could have added 'constitutions' to this list, but one has to be careful when talking about constitutions playing a part in the support of social harmony. To begin with, there is the obvious distinction between a liberal-democratic concern with constitutions, and several other kinds of social uses to which constitutions can be put. Most notably, there are the constitutions that express and legitimise (in the Weberian sense) anti-liberal and anti-democratic sentiments that openly impose and justify hatred and oppression. (The Nuremberg Decrees could be seen as part of the 'constitution' of Nazi Germany and, indeed, as was suggested in *Kartinyeri v Commonwealth* (*'Hindmarsh Island Bridge Case'*),[8] not necessarily incommensurate with the 'races power' in s 51 of the Constitution.) Or, there are constitutions that have democratic provisions (whether illusory or real) but also proclaim oligarchic or theocratic supremacy, either in the name of the proletariat, as in the case of the former Soviet Union, or of God, as in the case of the Islamic Republic of Iran. ('The Islamic Republic is a system based on belief in the One God; it is based on His exclusive sovereignty and the right to legislate, and the necessity of submission to His commands; on divine revelation and its fundamental role in setting forth the laws; on the return to God in the Hereafter...'.[9]) And among those oligarchic constitutions that also have democratic pretensions, one may distinguish those that are very largely bogus – completely bogus in the case of the Soviet Union – from constitutions such as that of Iran that allow for some genuine electoral democracy, even if existing

6 Donald Horne, *Looking for Leadership: Australia in the Howard Years* (2001).
7 Martin Krygier, *Between Fear and Hope: Hybrid Thoughts on Public Values* (1997).
8 (1998) 195 CLR 337.
9 *Constitution of the Islamic Republic of Iran* ch 1, art 2.

side by side with genuine theocratic suppressions. ('The affairs of the country must be administered on the basis of public opinion expressed by the means of elections, including the election of the President, the representatives of the Islamic Consultative Assembly, and the members of councils, or by means of referenda in matters specified in other articles of this Constitution.'[10])

III CONSTITUTIONS THAT EXPLICITLY STATE THE PROCESSES OF GOVERNMENT

Constitutions like these, either explicitly or in effect, are intended to impose 'social integration'. In stark contrast are the liberal-democratic constitutions that explicitly state the processes of government and some liberal practices (and, usually, put forward some principles of social-democratic practice), and do it in simple language (if also language that gains meaning from the interpretations of the law courts). There's no poetry in these constitutions – unless their no-gush straightforwardness itself makes up a kind of liberal-democratic poetry – and their presence gives a more open feel and a more workmanlike value to the political system. Only a liberal-democratic constitution that is expressed in liberal-democratic language is likely to directly support liberal-democratic social harmony.

Of these, the Swedish Constitution – *The Instrument of Government* – is a masterpiece of what a new model constitution can look like. It doesn't begin with a preamble. It begins, in business-like manner, by stating some 'Basic Principles'. Article 1 of these says that 'all public power in Sweden proceeds from the people',[11] that 'Swedish democracy is founded on freedom of opinion and on universal and equal suffrage',[12] that it is to be realised through 'a representative and parliamentary polity and through local self-government',[13] and that 'public power shall be exercised under the law'.[14] Another article explains among other things that the Parliament is 'the foremost representative of the people':[15] it 'enacts the laws, determines taxes, decides how public funds shall be used and examines the government and administration of the country'.[16] Another explains that although the government rules the country, it is responsible to Parliament.[17] Others summarise the system of local government and the legal system. If you want to know how Sweden is governed, then look up the 'easy to use' contents page, and find the answer.

I once attempted a similarly prosaic introduction to put at the top of our Constitution to replace its present preamble. There was no preamble in my

10 *Constitution of the Islamic Republic of Iran* ch 1, art 6.
11 *The Instrument of Government* ch 1, art 1.
12 *The Instrument of Government* ch 1, art 1.
13 *The Instrument of Government* ch 1, art 1.
14 *The Instrument of Government* ch 1, art 9.
15 *The Instrument of Government* ch 1, art 4.
16 *The Instrument of Government* ch 1, art 4.
17 *The Instrument of Government* ch 1, art 6.

paragraphs. Instead, on the Swedish pattern, it began with a statement of 'Basic Principles'. They ran like this:

(1) Australia, the first nation created by a vote of its own citizens, is an independent, sovereign Commonwealth in which public power comes only from its citizens, in elections and referendums, and shall be exercised only under the law.
(2) Australia is a democracy based on freedom of opinion and on universal, direct, secret and equal voting.
(3) Australia is a diverse society in which there are equal rights under the law, and in which there is recognition of the unique position of the Indigenous peoples.
(4) Australia is a federation in which responsibilities are divided, according to this Constitution, between the national government and the governments of the States.
(5) The national and State Parliaments represent the citizens. These Parliaments pass laws, decide taxes, determine how public funds will be used and examine the acts of governments. Governments are responsible to Parliaments and govern only with their consent.
(6) Some functions of State governments are delegated to local government institutions whose governing bodies are publicly elected and publicly accountable.
(7) Justice is administered by the courts of law, and public affairs are administered by government departments and authorities. In the exercise of these functions, the courts and administrative authorities may not without legal grounds treat persons differently by reason of their religious faith or their opinions, their race or skin colour, their ethnic or national origin, their sex, age, place of residence or marital status.

I should explain that yes, I do understand that if these sentences were justiciable, some of them, as interpreted by the court, might have unexpected consequences. (One might add that if plain sentences like these are *not* in a constitution, that may also have unexpected consequences.) But then much of what has been put down as 'Basic Principles' does explain what already happens and one might argue that other parts should be there in the Constitution anyway. The idea that voting should be 'equal' is still contentious, but why not 'give it a go'? (I would like to see added to the Constitution a provision that voting should be 'compulsory'; with an imaginative political leader who could speak convincingly of civic duty, the day for that kind of thing might come. Like a gold medal, this almost unique practice could then be an occasion for Australian pride.) The same goes for the last sentence, with its statement of tolerance towards opinion, religious faith, race, ethnicity, national origin, sex, age, place of residence or marital status, and its qualification that 'administrative authorities' may not act 'without legal grounds'. What some of this does is to express constitutionally what already, partly, exists in statutes in the form of various anti-discrimination measures (in the case of the federal Parliament, race, sex and disability discrimination legislation) – why not polish it up more carefully and

'give it a go'? Theories of tolerance are new to Australia – how could you develop a credible theory of tolerance in a country that by defining itself as 'White Australia' for so long made intolerance central to its 'brand name'? It might be a good thing if such tolerance theories were more emphatically stated. (In a political compromise, a Parliamentary Statement on Racial Tolerance came out of the Hanson affair in October 1996,[18] but for all the use that has been made of it, it might as well not be there.) The reference to 'the unique position of the Indigenous peoples' does seem to pose difficulties. Earlier, I had put in a more limited reference to how 'the ancestors of the Aborigines and the Torres Strait Islanders, as the original occupants, held a custodianship over the land, a custodianship that, as Australians, we have all come to share'. Perhaps it might come back to that. However I am not concerned with detail here – nor with present political practicalities. These depend on a bold political leader seizing a time of opportunity. What I am trying to do is to demonstrate how open and democratic the Swedes are. The beginning of a constitution should be simple, direct, relevant and something that could be put up on the walls of public places and taught in schools.

If you are speaking of social harmony, to display the civic contract in the Swedish manner could help in the process of uniting us despite our divisions. It could show us the general rules of the place to which we belong, providing a formal basis for a shared discourse that, at present, we lack (as was shown in the patchy and at times near-ludicrous speeches by politicians and others during the 2001 commemorations). Immigrants could receive lessons in it. Foreign visitors could be given pamphlets on 'The Australian Way'. Speaking to citizens can be one of the significant liberal-democratic functions of a constitution, but an important function of *our* Constitution as it stands is to project a mystique of ineffability – something whose meaning is lost in words so that only specialists can speak about it, and the words themselves are interposed between distracting lumps of detritus. What it could project would be not a mystique of the arcane, but a glow of openness, accessibility and shared discourse; it could become, on the face of it, a simple statement of what our political system is, or is supposed to be. It could be something that, if they wanted to, citizens could look up. It might be handy to accompany printings of it with some notes about what courts have said about this and that, but if the Constitution is out there in the open it can seem an intelligible part of our civic lives. In fact, it would be a telling demonstration that we *do* have civic lives – as it stands now, there are not many significant reminders of that. A constitution doesn't need portentousness, or obfuscation, or folkishness, or poetry to be respected. It should earn respect by coming through as a plain demonstration of democratic sincerity. If one is seeking the role of a constitution as an aid to social harmony in a liberal-democratic polity and a pluralist society, it is in liberal-democratic terms that the Constitution should speak. Of course, it might also be presented with a certain amount of monumental show. The US Constitution, along with the *Declaration*

18 Gareth Evans and Peter Reith, *Joint Parliamentary Motion on Racism*, Press Release, No P2530 (30 October 1996).

of Independence, is kept in a national shrine; other countries have Constitution Squares and keep up Constitution Days. (The *Commonwealth of Australia Constitution Act 1900* (Cth) and other 'birth certificates' are now on display in an alcove in the National Archives.) There is no need for us to be too pompous about it – this is Australia, and it is the 21st century. But, as the almost entire lack of civic oratory from our political leaders during the centenary of Federation showed, it is an Australia that could do with a bit of a lift-up in its public civic definition of itself. (As things are, it is an Australia that is now in danger of reducing even its folkishness to an enthusiasm for a few major spectator sports – as when Athletics Australia tried to brand its athletic teams 'the Aussie Diggers'.)

If one sees a constitution having this kind of socio-cultural function, then it is the words it uses and how it presents them that matter. I apologise for going through the weary task of making this point again,[19] but the point must be made that, read in itself, the Constitution suggests a kind of 18th century framework for a polity in which the executive power in Australia is vested in the heirs and successors of Queen Victoria who can in turn delegate this power to a Governor-General. This Governor-General, also Commander-in-Chief of the armed forces, governs Australia with the advice of a Council whose members he appoints and who hold office during his pleasure, and through ministers whom he alone appoints (although they must be elected to Parliament within three months of their appointment). And although Parliament is given the power of the purse, its power to legislate is limited by a provision that the Governor-General and Commander-in-Chief might himself refuse to assent to an Act of Parliament, or he might refer it to the monarch for decision. There is no specific mention of universal franchise, no specific mention of the need for a government to maintain a majority in the Lower House, no reference to the existence of the position of Prime Minister or of Cabinet, no explicit statement limiting the powers of the Governor-General, very little statement of liberal rights and no statements of tolerance. And what there is of liberal-democratic practice is not only put into language that is obscure; it is also to be read among a litter of more than two dozen obsolete provisions that to those who don't know the 'score' can produce only boredom and puzzlement. I wonder what benefits there are to liberal-democratic life and social harmony by leaving the Constitution like that. What is the special benefit of offering citizens a constitution that, in many ways, on the face of it, doesn't make sense?

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19 I have written about this time and again, but perhaps the point was best made in Donald Horne, *His Excellency's Pleasure* (1977), a satire on the endless possibilities if literal interpretations of the Constitution were taken seriously. Other mentions include: Donald Horne, *Power from the People: A New Australian Constitution?* (1977); Donald Horne, *The Coming Republic* (1992); Donald Horne, *How to be Australia* (1994); Donald Horne, *Looking for Leadership: Australia in the Howard Years* (2001); Donald Horne, 'Republican Australia' in Geoffrey Dutton (ed), *Australia and the Monarchy* (1966); Donald Horne, 'What Kind of Head of State?' in Sol Encel, Donald Horne and Elaine Thompson (eds), *Change the Rules: Towards a Democratic Constitution* (1979); Donald Horne, 'A Civic Identity, Not a National Identity' in M A Stephensen and Clive Turner (eds), *Australia: Republic or Monarchy?* (1994); Donald Horne, 'Civic Identity, Not National Identity' in South Australia Multicultural and Ethnic Affairs Commission, *Multicultural Forum* (1995).

The answer that is often given is that the Constitution has served us well. There is even a suggestion among some of its apologists (at least when they are up on public platforms in front of unsophisticated audiences) that it is almost unconstitutional to wish to change the Constitution – even though Chapter VIII says, as it were, 'here are the rules for changing me: change me if you will'. Associated with this attitude is the doctrine: 'if it ain't broke don't fix it'. (This might be called 'The Plumber's Axiom' since Sir Gerard Brennan said in the fourth Geoffrey Sawer Lecture that it 'might apply to plumbing, but not to the Constitution of a nation in a rapidly changing environment'.[20]) Put less childishly, the argument for no change is that the realities of Australia's political system move along established liberal-democratic lines, that, whatever the language of the big 'C' Constitution, there is a small 'c' constitution that exists more in liberal-democratic practice than in words. A report from the Australian Citizenship Council in 2000 suggested that, among other things, the core civic values of Australians include: the rule of law and the ideal of the equality under the law of all Australians; belief in Australia as a representative liberal democracy based on universal adult suffrage and on freedom of opinion; and the ideals of Australia as a tolerant and fair society and a society devoted to the wellbeing of its people.[21]

In the meantime, we have to make do with the kind of argument that says we all know (by which I mean the kind of people who read this article all know) that the Constitution is not an exact description of what happens. It has to be read in the context of what we all know. We all know that the Constitution has to be considered in the context of the *Statute of Westminster 1931* (Imp) and the *Australia Act 1986* (UK). We all know the importance of the common law in respect to freedoms and other matters. We all know the doctrine of 'conventions' (but we don't all remember that this doctrine didn't work in the filling of casual Senate vacancies in 1975, and we don't all admit that in other alarming circumstances it might fail to work even more brutally). We all know how power has shifted from Britain to Australia without changing the Constitution. We all know how ingeniously, in *Australian Capital Television Pty Ltd v Commonwealth [No 2]* (*'Electoral Advertising Bans Case'*),[22] the High Court found, in invisible ink in the Constitution, principles of responsible and representative government, which implied freedom of political communication. We all know how the external affairs power has clothed the national government with powers over subject matters that can't be found expressly in the Constitution. But, if confronted with the Constitution, how many of our fellow citizens know all, or any, of that? And, again, where is the special benefit to democratic life and a harmonious society in keeping them in the dark? If 'social integration' in Australia is assisted by an obscurantist mystique of the Constitution as a document whose meaning has been revealed only to experts

20 Sir Gerard Brennan, 'Fourth Geoffrey Sawer Lecture: "100 Years On – Strengths and Strains in the Constitution"' (Paper presented at the Australian National University Public Lecture Series, Canberra, 18 July 2001) 1.

21 Australian Citizenship Council, *Australian Citizenship for a New Century* (2000).

22 (1992) 177 CLR 106.

(who often, in fact, can't agree about any particular meaning anyway), this is a 'social integration' that depends not on liberal-democratic language but on the mystifying and the arcane. The fact that so much has been achieved in making democratic common sense out of an arcane constitution does not mean that our Constitution has worked well: it means that our courts have worked well and that our general political culture, as these things go, has been effective.

IV CHANGING OUR CONSTITUTION

In its Report to the Constitutional Commission in 1987, the Advisory Committee on Executive Government said:

> It is often argued that one can spell out too much in a constitution and that to do so can hobble future political development. ... But it can be also argued that there is some necessity for particularity within a constitution. Otherwise, why have a constitution at all? ... The point is that some provisions need to be flexible enough to allow for future adaptation by the institutions of government and some do not and must be specific ... *A constitution must appear to be the property of the people, the government of whose affairs is its concern. It must speak to them in their own language.*[23]

How would we do that? Answering that is another all-too-familiar task. (Twenty-five years of it!) To make the Constitution more forthright and more comprehensible, amend it so that people can understand things as they are. Cut out the spent provisions (thereby reducing the size of the Constitution by more than a fifth). State specifically that voting shall be universal, direct and secret. State that the Prime Minister shall be formally elected by the House of Representatives and dismissed by the House if it so decides. Settle the powers of the President (as it would be by this stage because none of this is going to happen under the vice-regal system). Say that the President shall act only on the advice of the government except ... – with certain stated exceptions. This is, of course, contentious: a minimum would be to declare the presidential reserve powers in general terms. That would take a sentence: the dissolving of Parliament (according to rules laid down) and the dismissal of a government that is 'persisting in grossly unlawful or illegal conduct'.[24] Even the simple declaration of the second of these two principles would have ruled out Sir John Kerr's dismissal of the Whitlam Government – which at the stage he dismissed it was not 'persisting in grossly unlawful or illegal conduct'. This power of dismissal seems to me to be at the hub of the republican debate. It was an example of the silliness of the Constitutional Convention that this subject was scarcely discussed. When the republic debate resumes there are two initial questions to talk about: *Why become a republic?* (a matter that needs some freshening-up); and *What are the powers of the President to be?* (how can one discuss other matters without first settling this?). There is no point in having a

23 Constitutional Commission, *Report of the Advisory Committee on Executive Government* (1987) 13-14 (emphasis added).

24 Ibid 68.

republic debate or, for that matter, a republic, unless the discussion is embedded in basic liberal-democratic questions about our polity.

The Constitution contains no Bill of Rights partly because of Brycean and Diceyan respect for common law traditions, but also partly because a statement of rights might have *worked*, and worked against some contemporary discriminatory policies. Now that it may be time to join the rest of the liberal-democratic world (including the United Kingdom, Canada and New Zealand), we know that there are other ways of doing this than by embedding a Bill of Rights: we can do it instead with a Charter of Rights and Freedoms, or with entrenched legislation, but from the point of view of this article, a liberal-democratic constitution demands some expression of liberal principles (however hedged in) as a reminder that the polity is more than the Parliament, the courts, and so forth. To provide something to point to, and appeal to, it might enrich our civic lives if a formal statement was made of at least a few established liberal principles. The first five of the more than 50 provisions in the Swedish Constitution are freedom of expression, freedom of information, freedom of assembly, freedom to demonstrate and freedom of association. How about putting those directly into the Constitution (hedged in with qualifications) as a reminder that among the most important institutions of a liberal democracy are the freedoms of expression, information, assembly, demonstration and association? This is the kind of thing that, as suggested earlier, could be taught in schools and that could also help renew our civic oratory.

Social democracy comes with art 4 of the Swedish Constitution when it says that 'the personal, economic and cultural welfare of the individual shall be fundamental aims of public activity'.[25] And that, in particular, 'it shall be incumbent upon the public administration to secure the right to work, housing and education, and to promote social care and social security and a good living environment'.[26] How about putting that in too? It is true that having such provisions in a constitution doesn't necessarily mean that they will happen. In the foyer of the Reserve Bank of Australia the objectives of its charter are carved into the wall –

THE STABILITY OF THE CURRENCY OF AUSTRALIA

THE MAINTENANCE OF FULL EMPLOYMENT IN AUSTRALIA

THE ECONOMIC PROSPERITY AND WELFARE

OF THE PEOPLE OF AUSTRALIA

– and that hasn't provided full employment, but there is always the chance that words written into a constitution might come true.

What I have been writing about may not appear to be practical. But how practical is it to imagine that there can be an almost universal acceptance of certain declared civic principles and practices in Australia if there is no place where they are described?

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25 *The Instrument of Government* ch 1, art 2.

26 *The Instrument of Government* ch 1, art 2.