

**VOX POPULI? VOX HUMBUG! – RISING TENSION BETWEEN THE SOUTH
AFRICAN EXECUTIVE AND JUDICIARY CONSIDERED IN HISTORICAL
CONTEXT – PART TWO¹**

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SUMMARY

Part One of this article traced rising tensions between the South African executive and the judiciary on the question of the separation of powers. This situation was then contrasted and compared with a clash which took place in the 17th century between King James I of England and Chief Justice Edward Coke. In Part Two of this article attention is focused on two specific cases which arose out of the clash between James and Coke - *Prohibitions Del Roy* and *The Case of Proclamations*. The article then turns to a discussion of the lessons which can be drawn from these cases. The arguments which were raised in the cases are contrasted and compared with more contemporary arguments advanced in the context of the present conflict between the South African executive and the judiciary. The views of Ronald Dworkin comparing 'majoritarian' and 'constitutional' conceptions of democracy are examined in the context of this debate. Tentative conclusions are then drawn and warnings issued of the negative consequences for South Africa if the potential conflict between the executive and the judiciary is not properly resolved.

¹ The phrase '*Vox Populi? Vox Humberg!*' used in the title of this article is borrowed from William Tecumseh Sherman, the American Civil War general who used it in relation to press reporting. It is adapted from the ancient adage '*Vox populi, vox Dei*' - 'The voice of the people [is] the voice of God', the origins of which are uncertain. However, an early example of its use was by Alcuin in 798 AD (Wikiquotes Date Unknown en.wikipedia.org).

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