

# Dedication to George Winterton

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This volume of essays on *Constitutional Perspectives on an Australian Republic* is dedicated to the memory of the late Professor George Winterton. The essays making up the book are based on papers presented at a seminar conducted by the Australian Association of Constitutional Law in conjunction with the Western Australian Constitutional Centre on 29 November 2008.

The national debate about whether and when Australia should become a republic and the shape of an Australian republic will no doubt continue for some time. It is of the first importance that such debate be informed by the best advice that the Australian people and their elected representatives can receive about the legal options and issues and the difficulties incidental to the establishment of the various forms of republic. The focus of the seminar was therefore on the legal mechanics of change rather than advocacy for change or for any particular model.

It is fitting against that background that the deep and long-standing scholarly contribution of the late Professor George Winterton to public consideration of an Australian republic be acknowledged. It is fitting that the volume be dedicated to him and it is my privilege to write this dedication.

George Winterton was born in 1946 in Hong Kong. His family moved to Western Australia in 1948 where he received his schooling and university education. He graduated from the University of Western Australia with first class honours in law in 1968. He was the top student in the final year of the law course. He completed his articles and was admitted to practice in Western Australia in 1970 and worked as a solicitor until 1973. That year he won a Fulbright Scholarship and was appointed as an Associate in Law at Columbia University, teaching legal research and writing on international law. He returned to Australia in 1975 and was appointed as a senior lecturer at the University of New South Wales where he eventually became a Professor of Law. He continued as Professor of Law at that University until 2004 when he was appointed Professor of Constitutional Law at the University of Sydney. He was awarded

the honorary degree of Doctor of Laws by the University of Western Australia in 2007.

On the way to these appointments, Professor Winterton completed a Masters Degree by thesis in 1970 on the topic of the appropriations power under the *Commonwealth Constitution*. He gained a Doctorate of Juridical Science at Columbia University in 1983. His leading text on the executive power of the Commonwealth was published in 1983 by Melbourne University Press under the title *Parliament, the Executive and the Governor-General*. He produced or edited seven books, contributed chapters to another 19 and published 52 papers in journals in Australia, the United States, the United Kingdom, Canada and Hong Kong. He also founded and edited the very well regarded *Constitutional Law and Policy Review*. He frequently wrote newspaper articles in national and State newspapers and participated significantly in public affairs and constitutional reform. His participation included service as a member of the Executive Government Advisory Committee for the Constitutional Commission in 1986 and 1987 and of the Republican Advisory Committee in 1993. He was a delegate to the Constitutional Convention in 1998.

Relevantly to the present volume, George Winterton's publications on the development of an Australian republic have been very substantial. They include his book published in 1986, and republished in 1994, under the title *Monarchy to Republic – Australian Republican Government* and the book he edited in 1994 under the title *We, The People – Australian Republican Government*. He contributed 10 chapters to edited books in which he discussed a number of topics relevant to those covered by the essays in this book. His contributions included broad consideration of the constitutional implications of a republic and the forms a republican constitution might take. He wrote about the way in which an Australian President might be appointed or elected and the important position, which can never be overlooked in this discussion, of the constitutional position of the Australian States and their Governors.

In 21 published articles, directed in large part to academic and legal audiences, but also to a wider public, he canvassed many other questions involved in the consideration of a republic. They included the place of reserve powers in a republic, mechanisms for the removal of a republican president and the form of a new constitutional preamble. He also drafted a 'minimalist' set of constitutional amendments under which a republic could be established with the least disturbance to the current form of the *Constitution*. That model

is discussed in this book by Assistant Professor Sarah Murray. She rightly points to Professor Winterton's emphasis in all his discussions on the importance of Australia's constitutional foundations. As she points out, his model demonstrates the need to consider the impact of republican reforms on power relationships existing both within the Commonwealth and between the Commonwealth and the States. His approach was intellectually rigorous. This means that his contribution is a resource which can be utilised by all sides of the debate, by those for and those against a republic and by the proponents of different models. This is truly a body of work pro bono publico. His outstanding contribution to intelligent, civil and informed debate about a great public issue, will underpin the enduring value of George Winterton's constitutional scholarship.