

Remarks of the Hon. the Chief Justice Marilyn Warren AC,
Lieutenant-Governor of Victoria and Chief Justice of the
Supreme Court of Victoria
upon the launch of
The Constitution of Victoria
by Dr Greg Taylor,
held at the Supreme Court Library, Supreme Court of Victoria
27 November 2006

Your Honours, distinguished guests and ladies and gentlemen.

May I welcome you this evening to the Library of the Supreme Court of Victoria.

The *Australian Constitutions Act* 1850 separated the Port Phillip district from New South Wales. The people of the Port Phillip district celebrated. A bonfire was lit at Flagstaff Hill. Proud citizens rallied around the separation tree in the Botanical Gardens. Victoria came into existence. A matter of weeks later, the Victorian gold rush began. A population and wealth explosion occurred that would eventually establish "marvellous Melbourne".

With a part-elective legislative council that met at St Patrick's hall in Bourke Street, a new democratic age began. The Colonial Office was keen to advance suitable colonies to local responsible government. So, in December 1852, self government was offered to the Australian Colonies. This time there were no bonfires or gatherings. The achievement of self government required hard work. That was performed by a Select Committee of the legislative council that met behind closed doors. One of the primary constitutional drafters was Sir William Stawell, whose portrait, robed as one of my predecessors, looks down on us this evening.

Stawell and the other members of the drafting committee were entrusted with a special opportunity for Victorians, the drafting of their very own constitution. History tells us that they were forging a new democratic frontier in an environment of the tumult and turmoil of the gold rushes.

The drafters carefully constructed a two chamber approach to the parliament and developed the document that following some amendments in London became "Schedule One to the *Victoria Constitution Act* 1855". Victoria achieved power to its Legislature to alter the *Constitution Act* itself subject to British imposed conditions.

Doubtless, the constitutional experience in Victoria contributed to the eventual nationalistic progress towards another constitution, the *Australian Constitution*.

Dr Greg Taylor has written, in scholarly terms, a text that will stand on the shelves of those who advise upon and study the process of State Government in Victoria. He has traced the fascinating history of our State from a Victorian perspective with a focus of legal acumen but a constant eye towards the historical context. Its bibliography is a joy for those interested, let alone fascinated by Victorian social, political and constitutional history. *The Constitution of Victoria* by Dr Taylor (together with the contribution of Dr Nick Economou) will complete the Victorian devotee's bookshelf and sit alongside the works of Serle and Waugh and provide an excellent companion to the recently published *The Victorian Premiers* edited by Paul Strangio and Brian Costar.

But, how useful will the text be? I believe it is highly useful and of great practical value. It explains the structure of government in Victoria and its workings and practice. It is particularly the latter which will be of enormous assistance to those who must provide advice, often in a pressured context, from the Governor to the Premier to the Parliament. It even provides important information and analysis about the office of Lieutenant Governor and Chief Justice.

In the context of the just completed state election, the work of Dr Taylor (together with Dr Economou) enables the student of Victorian government to understand the workings of government at all important levels.

It is also relevant as the book demonstrates, once again, the way in which Victoria has provided the template for the national experience. For many, the affairs of government in Canberra in 1975 were thought to set the precedent. Not so, here in Victoria we have had our own experiences at the refusal of supply and pressures upon the vice regal office. Dr Taylor's work explains how we reached the position of the *Constitution Act* 1975 here in Victoria and how it is applied and practised.

In so doing, this most important document on Victorian government provides recognition, analysis and consideration that the subject ought properly have. Dr Taylor's book also provides an important vehicle in educating the community about the Victorian constitution. In all likelihood, as distinct from the times of bonfires at the Flagstaff Gardens or parties under a tree in the Botanical Gardens, most Victorian citizens would be ignorant of the fact that there is a Victorian Constitution, the *Constitution Act*. Indeed, the role and powers of state government have come to the fore in the recent judgment of the High Court in the *Work Choices* case. In the discussion surrounding centralism vs federalism, Dr Taylor's work provides a relevant foundation for the state context of the discussion.

Sir Daryl Dawson observes in the foreword to the book:

"Constitutional law involves, more than any other area of law, a depth of understanding of both principle and policy. It also requires a knowledge of history in order to trace and understand the evolution of modern theory and practice. Whilst a breadth of approach is necessary in the study of constitutional law, at the same time it is a discipline which throws up fine distinctions to hone the mind of any lawyer seriously engaged in it. It involves close reasoning of a kind no longer demanded elsewhere in the law. The exposition of Victorian constitutional law in this work will be an invaluable aid to all those concerned in any of these ways to comprehend its many aspects."

For those of you who do not know Dr Taylor, he is a graduate of Adelaide University with particular interest in not just the law, but also matters Germanic. He has published, as recently as this year, works on the characterisation in federations and the subsidiarity principal in German constitutional law. He presently lectures at Monash University including on the law of evidence.

As Victorians, we should be grateful for the intellectual commitment made by Dr Taylor to the completion of his work. It is an important contribution to the learning of constitutional law beyond the usual national setting.

Relevantly, the work was assisted by a fully funded grant from the Victoria Law Foundation. As President of the Foundation, I am able to say that we are very proud of and pleased with our investment.

Your Honours and ladies and gentlemen, it is with great pleasure that I officially launch *The Constitution of Victoria* by Dr Greg Taylor including a chapter by Dr Nick Economou published by the Federation Press.