

Introduction

Australian States: Cinderellas No Longer?

George Winterton

A renaissance in State constitutionalism?

Fourteen years ago, the present writer characterised provincial constitutions as the “Cinderellas of federal constitutionalism throughout the world”,¹ noting that:

Australian constitutional scholars and would-be reformers have devoted disproportionately little attention to State constitutions, leaving them in a sorry state of jumbled neglect.²

As Darrell Lumb had observed a decade earlier, “in Australia a State Constitution is fissiparous both in content and form. It is an elusive beast, hard to pin down”.³ The *State Constitution Acts* contained only a portion of the legislation regulating the constitution and functions of the principal State institutions – Parliament, the executive Government and the Supreme Court – and most were enacted long ago. Queensland’s then-current *Constitution Act* dated from 1867,⁴ while Victoria’s was the only *Constitution Act* enacted since the Second World War.⁵ Indeed, Western Australia even had (and still has) two *Constitution Acts* – of 1889 and 1899⁶ – both amended many times, which cumulatively represent only a portion of the State’s “constitutional” legislation, as illustrated by

1 G Winterton, “The Constitutional Position of Australian State Governors”, in HP Lee and G Winterton (eds), *Australian Constitutional Perspectives* (Sydney: Law Book Co, 1992), 274 at 332. The allusion was, of course, to Cinderella pre-Ball.

2 Ibid.

3 RD Lumb, “Methods of Alteration of State Constitutions in the United States and Australia” (1982) 13 *Federal Law Review* 1 at 4.

4 *Constitution Act 1867* (Qld).

5 *Constitution Act 1975* (Vic).

6 *Constitution Act 1889* (WA); *Constitution Acts Amendment Act 1899* (WA).

This is a preview. Not all pages are shown.