

George Winterton – A Singular, Gifted Scholar

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Renowned for the clarity, felicity and economy of his prose, the late George Winterton was surely correct to conclude that ‘Australian constitutionalism scored one of its greatest triumphs when the High Court invalidated the *Communist Party Dissolution Act 1950 (Cth)*’, and that the decision was ‘probably the most important ever rendered by the High Court’.¹

And it was no less of an accurate summation for Winterton to say of the Governor-General Sir John Kerr’s sudden sacking of the Whitlam government at about 1pm on 11 November 1975 that it is ‘the most dramatic event in Australian political history’.²

In *Australian Constitutional Landmarks*, the collection of scholarly essays which he jointly edited with HP Lee of the Monash University Law School, George contributed *The Communist Party Case* (Chapter 5), and *1975: The Dismissal of the Whitlam Government* (Chapter 10). It is a mark of George Winterton’s singular contribution to Australian scholarship that these two essays, which say so much about the evolution of the first century of the Commonwealth of Australia, will long endure as illuminators of the 20th century’s two foremost constitutional confrontations.

In his treatment of the *Communist Party Case*³ (a re-working of his 1992 essay in the *Melbourne University Law Review*⁴), George made the introductory observation that as with all great constitutional decisions, the *Communist Party Case* can *only* be understood in its historical and political context (my emphasis). It was in his recognition and exposition of the ways in which history, politics, the Constitution, and the law are inextricably intertwined, that George was without peer in his cohort of Australian constitutional scholars, namely, those who came to adulthood at the conclusion of the second decade of the Cold War.

1 HP Lee and G Winterton (eds), *Australian Constitutional Landmarks* (Melbourne: CUP, 2003) (*Constitutional Landmarks*), 129.

2 *Constitutional Landmarks*, p 229.

3 *Australian Communist Party v Commonwealth* (1951) 83 CLR 1.

4 (1992) 18 *Melbourne University Law Review* 630.

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