Law and Democracy

Contemporary Questions

Law and Democracy

Contemporary Questions

Edited by Glenn Patmore and Kim Rubenstein

PRESS

Published by ANU Press
The Australian National University
Canberra ACT 0200, Australia
Email: anupress@anu.edu.au
This title is also available online at http://press.anu.edu.au

National Library of Australia Cataloguing-in-Publication entry

Title: Law and democracy : contemporary questions / editors: Glenn Patmore, Kim Rubenstein.

ISBN: 9781925022018 (paperback) 9781925022063 (ebook)

Subjects: Democracy--Australia
Constitutional law--Australia.
State, The.
Political science--Australia
Australia--Politics and government.

Other Creators/Contributors:
Patmore, G. A. (Glenn Anthony), 1961- editor.
Rubenstein, Kim, editor.

Dewey Number: 320.994

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying or otherwise, without the prior permission of the publisher.

Cover design and layout by ANU Press

Printed by Griffin Press

This edition © 2014 ANU Press

Contents

Preface vii

1. Law and Democracy: Contemporary Questions 1
Glenn Patmore and Kim Rubenstein

I. ASSUMPTIONS AND SCOPE OF CONSTITUTIONAL DEMOCRACY

2. Democracy and the Constitution: The People Deciding the Identity of 'the people' 11
Elisa Arcioni

3. Thick and Thin Citizenship as Measures of Australian Democracy . .27
Kim Rubenstein and Niamh Lenagh-Maguire

4. The Right to Participate: Revisiting *Roach* and *Rowe* 45
Glenn Patmore

II. ACCOUNTABILITY AND RESPONSIBLE GOVERNMENT

5. Ministerial Advisers: Democracy and Accountability 65
Yee-Fui Ng

6. Applied Law Schemes and Responsible Government: Some Issues 85
Joe Edwards

III. DEMOCRACY, LAW AND CULTURE

7. Ritual in the Law of Electoral Democracy 115
Graeme Orr

8. Performing Citizenship, Embodying Obedience 131
Anne Macduff

9. People You Might Know: Social Media in the Conflict Between Law and Democracy 153
Stephen Tully

Notes on Contributors 173