New South Wales
Legislative Council
Practice
This first edition of *New South Wales Legislative Council Practice* brings together the history, practice and procedure of the New South Wales Legislative Council – the Upper House of the New South Wales Parliament, and the first and oldest legislative body in Australia.

Since its formation in 1823, the New South Wales Legislative Council has been a contested institution, the focus of continuous struggle regarding its composition, powers, role and very existence. The colonial Council of 1823–1856 grew from a consultative body to the colonial Governor into the first representative body in Australia, central to the assertion of the colony’s independence from England. Following the achievement of responsible government in 1856, the reconstituted and once again unelected Council went through a tumultuous period as liberals and conservatives grappled with its role within the new bicameral system. After a period of failed reform, in the early 20th century, the Council was the subject of a series of attempts by the Labor movement to abolish it. In 1978, following exhaustive negotiations, the Council was reconstituted again as a fully elected House based on a system of proportional representation.

The reconstitution of the Council in 1978, which bought a strong element of minor party representation to the House, has seen the Council rediscover its identity as the ‘House of Review’, central to the revival of parliamentary democracy in New South Wales. The modern Council has both the power and democratic legitimacy to scrutinise executive government. This has entailed a re-assertion of the power of the House to call for government papers and to ask questions of ministers, to amend or reject government legislation and to disallow legislative instruments. It has also entailed the development of the Council’s modern and extensive committee system, which is a formidable instrument for the Council to scrutinise the executive government and conduct inquiries into matters of public concern.

The rich history of the New South Wales Legislative Council has brought with it a wealth of parliamentary precedent with which to guide modern practice and procedures in the House. In particular, the Council has led the way in a number of areas such as orders for the production of government papers and calling ministerial staff to give evidence before a parliamentary committee. It is anticipated that the bringing together of these precedents in a single publication, supplemented by reference to authorities such as *Erskine May’s Parliamentary Practice* and *Odgers’ Australian Senate Practice* as appropriate, will provide a valuable reference tool for members and staff of the Legislative Council. It is also hoped that it will provide a useful reference for commentators interested in parliamentary democracy in New South Wales.
We acknowledge the efforts of many of the staff of the Council in the preparation of this book. In particular we wish to thank Velia Mignacca whose research assistance has been invaluable since the inception of this work, and Stephen Frappell, who has been integral to the editing and publication of the final volume. Others who made a significant contribution are Julie Langsworth and Susan Want. We also thank Gareth Griffith from the Parliamentary Library for his research in relation to the privileges of the Parliament of New South Wales.

Lynn Lovelock

John Evans

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