

# Papers on Parliament

Magna Carta 800 Symposium  
Parliament House, Canberra, 30 October 2015

**NUMBER 65**

Proceedings of a symposium held by the  
Department of the Senate and the  
Rule of Law Institute of Australia  
to commemorate the 800th anniversary  
of the sealing of Magna Carta

**FEBRUARY 2016**

Published and printed by the Department of the Senate  
Parliament House, Canberra  
ISSN 1031-976X

---

Published by the Department of the Senate, 2016

ISSN 1031-976X

*Papers on Parliament* is edited and managed by the Research Section of the Department of the Senate.

Edited by Paula Waring

All editorial inquiries should be made to:

Assistant Director of Research

Research Section

Department of the Senate

PO Box 6100

Parliament House

CANBERRA ACT 2600

Telephone: (02) 6277 3164

Email: [research.sen@aph.gov.au](mailto:research.sen@aph.gov.au)

**To order copies of *Papers on Parliament***

On publication, new issues of *Papers on Parliament* are sent free of charge to subscribers on our mailing list. If you wish to be included on that mailing list, please contact the Research Section of the Department of the Senate at:

Telephone: (02) 6277 3074

Email: [research.sen@aph.gov.au](mailto:research.sen@aph.gov.au)

Printed copies of previous issues of *Papers on Parliament* may be provided on request if they are available. Past issues are available online at [www.aph.gov.au/pops](http://www.aph.gov.au/pops).

---

# Contents

<b>Contributors</b>	<i>iv</i>
<b>Welcome</b>	
<i>Rosemary Laing</i>	<i>1</i>
<i>Nicholas Cowdery</i>	<i>3</i>
<b>Magna Carta: Enduring Values for Modern Australia</b>	
<i>Concetta Fierravanti-Wells</i>	<i>5</i>
<b>Magna Carta and the Rule of Law Tradition</b>	
<i>Martin Krygier</i>	<i>11</i>
<b>Magna Carta and the Executive</b>	
<i>James Spigelman</i>	<i>31</i>
<b>Magna Carta in Australia 1803–2015</b>	
<i>David Clark</i>	<i>43</i>
<b>The Other 1215</b>	
<i>Desmond Manderson</i>	<i>63</i>
<b>Magna Carta in Print and in English Translation</b>	
<i>Stephanie Trigg</i>	<i>75</i>
<b>Magna Carta: Personal Encounters, Popular Culture and Australian Links</b>	
<i>Kathleen Neal</i>	<i>85</i>
<i>Andrew Lynch</i>	<i>95</i>
<i>David Headon</i>	<i>105</i>

# Contributors

**Dr Rosemary Laing** has served as Clerk of the Senate since December 2009.

**Nicholas Cowdery AM QC** is the chair of the Magna Carta Committee of the Rule of Law Institute of Australia.

**Senator the Hon. Concetta Fierravanti-Wells** is the Minister for International Development and the Pacific. Her paper was delivered on behalf of the Attorney-General, Senator the Hon. George Brandis QC.

**Professor Martin Krygier** is the Gordon Samuels Professor of Law and Social Theory at the University of New South Wales and Adjunct Professor at the Regulatory Institutions Network of the Australian National University. He is a fellow of the Australian Academy of Social Sciences and is on the editorial board of the *Hague Journal on the Rule of Law* and the editorial committee of the *Annual Review of Law and Social Science*.

**The Hon. James Spigelman AC QC** was the Chief Justice of the Supreme Court of New South Wales and Lieutenant-Governor of New South Wales from 1998 to 2011. Between 1980 and 1998 he practised as a barrister in Sydney and was appointed QC in 1986. Between 1972 and 1976 he served as senior adviser and principal private secretary to the Prime Minister of Australia and as permanent secretary of the Commonwealth Department of the Media. From 1976 to 1979 he was a member of the Australian Law Reform Commission. Justice Spigelman has served on the boards and as chair of a number of cultural and educational institutions. In November 2012 he was appointed a Director of the Board of the Lowy Institute for International Policy. In 2013 he was appointed a Non-Permanent Judge of the Court of Final Appeal of Hong Kong. He is currently ABC chairman.

**Professor David Clark** is Professor of Law at Flinders University in Adelaide. He first published on Magna Carta in the *Melbourne University Law Review* in 2000. Since then he has contributed to the American Bar Association's 2014 book *Magna Carta and the Rule of Law* and published a paper on Magna Carta and court delay in the Pacific in *Magna Carta and Its Modern Legacy* (2015), edited by Robert Hazell and James Melton. A paper on Magna Carta in New Zealand will appear in the *Canterbury Law Review* in 2016. Professor Clark has delivered lectures on the charter at the State Library of New South Wales and at the Law Society of South Australia, both in June 2015. He has published on the history of constitutional landmarks such as habeas corpus and the Bill of Rights 1689. He is interested in how earlier legal instruments come to be reinterpreted and applied in modern circumstances.

**Professor Desmond Manderson** is jointly appointed in the ANU College of Law and the College of Arts and Social Sciences, Australian National University. After ten years as Canada Research Chair in Law and Discourse at McGill University, Montreal, he returned to Australia in 2012 to take up an ARC Future Fellowship, researching the relationship between law and the image. Two major outcomes of this research will appear in 2016: *Law and Visual Studies: Representations, Technologies and Critique* (Toronto) and *Concepts of Time and of Law in the Visual Arts* (Cambridge). He commences as foundation Director of the Centre for Law, Art and the Humanities at the ANU this year.

**Professor Nicholas Vincent\*** is a Professor of Medieval History at the School of History, University of East Anglia. He has published a dozen books and some hundred academic articles on various aspects of English and European history of the twelfth and thirteenth centuries, including *Magna Carta: The Foundation of Freedom, 1215–2015* (2015). He is a major contributor to the Department of the Senate publication *Australia's Magna Carta* (second edition, 2015) where he documents the history and provenance of the Australian Parliament's 1297 Magna Carta. He currently leads the UK's major research project on Magna Carta. He is a fellow of the British Academy.

**Professor Stephanie Trigg** is Professor of English Literature in the School of Culture and Communication in the Faculty of Arts of the University of Melbourne. She was the editor of *Medievalism and the Gothic in Australian Culture* (2005) and author of a paper 'Parliamentary Medievalism: The Australian Magna Carta as Secular Relic' (*Australian Literary Studies*, 2011). She is currently a chief investigator and a program leader in the Australian Research Council Centre of Excellence for the History of Emotions.

**Dr Kathleen Neal** lectures in medieval history in the School of Philosophical, Historical and International Studies in the Faculty of Arts at Monash University. Dr Neal's recent research has focused on the role of letters in political communication between the royal government and its subjects in thirteenth-century England. She also has a highly regarded academic blog, *In Thirteenth Century England*.

**Professor Andrew Lynch** is a Professor in English and Cultural Studies at the University of Western Australia and Director of the Australian Research Council Centre of Excellence for the History of Emotions. In 2015 he published *Understanding Emotions in Early Europe*, co-edited with Michael Champion, and *Emotions and War: Medieval to Romantic Literature*, co-edited with Stephanie Downes and Katrina O'Loughlin.

---

\* Professor Vincent provided a pre-recorded video presentation to the symposium which included extensive images. While a transcript is unavailable in this volume, the video can be viewed on the Parliament of Australia website at [www.aph.gov.au/magnacarta-symposium](http://www.aph.gov.au/magnacarta-symposium)

---

**Dr David Headon** is a Visiting Fellow in the Research School of Arts and Humanities at the Australian National University and a Parliamentary Library Associate. He was formerly Director of the Centre for Australian Cultural Studies in Canberra, Cultural Adviser to the National Capital Authority and the History and Heritage Adviser for the Centenary of Canberra.