

## **Declaratory Relief Since the 1970s**

*The Hon Wayne Martin*

### **Introduction**

A book focused on the grant of declaratory relief provides a timely opportunity to reflect on the important role which the grant of such relief has played in improving the ability of the courts to provide a more comprehensive, flexible and less technical means by which parties can resolve disputes. The increased utilisation and availability of the declaratory remedy has increased access to justice. This is no small or insignificant achievement, given the constraints on access to justice in contemporary Australia.

### **The need for the declaratory remedy**

The primary function of the courts is to administer the rule of law and, through that means, promote law and order and discourage anarchy and oppression. On the civil side of the court's work, those functions are performed by providing a mechanism for the resolution of disputes between citizens, or between citizens and government. On the criminal side of the court's work, those functions are performed by determining guilt or innocence, when that is put in issue, and determining the penalty to be imposed in the event of guilt.

For a number of historical reasons, largely born in the development of the common law system of justice, the courts

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