



## THE LAW LIBRARY OF VICTORIA

Library  
Bulletin  
29 March 2018

## Library News

### Lyrical Lunchtimes

Thursday 12 April, 1.15pm-2.00pm

The Law Library of Victoria and BottledSnail Productions present a series of lunchtime concerts designed to provide an opportunity to relax and reflect in the beautiful surrounds of the Supreme Court Library. The first Lyrical Lunchtimes for 2018 will be held on Thursday 12 April. More information about this event can be found on the Law Library of Victoria website, at [www.lawlibrary.vic.gov.au](http://www.lawlibrary.vic.gov.au)

BottledSnail Productions is a not-for-profit organisation that exists to give Melbourne lawyers a creative outlet. Cast, crew and committee members are almost exclusively drawn from Melbourne's legal profession.

All are welcome and entry is free. To register please email [libraryevents@supcourt.vic.gov.au](mailto:libraryevents@supcourt.vic.gov.au)

### Law Week

14-20 May 2018

Law Week is an annual festival of events that makes learning about the law easy. Held in May each year, Law Week has taken place across Victoria since 1980. More information about Law Week events can be found on the [Law Week website](#).

### SUBSCRIBE TO THE LIBRARY BULLETIN

If you would like to receive the Library Bulletin by email, please contact us at [lv@courts.vic.gov.au](mailto:lv@courts.vic.gov.au)

### Judging for the People: A Social History of the Supreme Court in Victoria 1841-2016



*Judging for the People: A Social History of the Supreme Court in Victoria 1841-2016* has just been published. Copies of the book can be ordered from the Supreme Court Library, please phone 03 9603 6282 for details.

The book costs \$60 and there is a \$10 discount for members of the Royal Historical Society of Victoria (RHSV).

# Contents

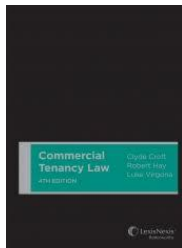
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# New Books

Following is a selection of new books in the Library collection. For details of more new books, see the Library Catalogue: [https://courts.sdp.sirsidynix.net.au/client/en\\_AU/llv/](https://courts.sdp.sirsidynix.net.au/client/en_AU/llv/).

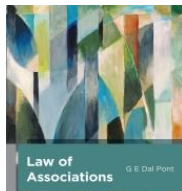
Judicial officers and court staff can borrow any of the books listed. Contact your jurisdictional librarian to request an item.

Members of the legal profession and the public can request any of the books to read on site at the Supreme Court Library.



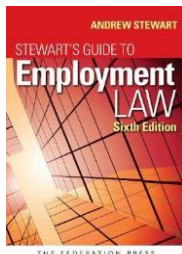
Croft, Clyde, Virgona, Luke, Hay, Robert, *Commercial tenancy law* 4<sup>th</sup> ed., LexisNexis Butterworths, Chatswood, 2018  
Call number: 346.0434 BRA.4 (Supreme Court Library, VCAT Library)

[Link to the book in the catalogue](#)



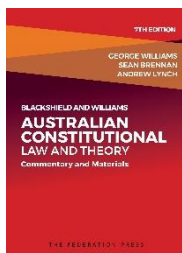
Dal Pont, G. E., *Law of associations*  
LexisNexis Butterworths, Chatswood, 2018  
Call number: 346.06 DAL (Supreme Court Library, VCAT Library)

[Link to the book in the catalogue](#)



Stewart, Andrew, *Stewart's guide to employment law* 6<sup>th</sup> ed., The Federation Press, Annandale, 2018  
Call number: 344.01 STE.6 (Supreme Court Library, Magistrates' Court Library)

[Link to the book in the catalogue](#)



Williams, George et al, *Blackshield and Williams Australian constitutional law and theory: commentary and materials* 7<sup>th</sup> ed., The Federation Press, Annandale, 2018  
Call number: 342.9402 (Supreme Court Library)

[Link to the book in the catalogue](#)

# Legislation

## Victorian Bills

The following Victorian Bills have received a second reading since the last Library Bulletin:

- [Advancing the Treaty Process with Aboriginal Victorians Bill 2018](#)
- [Education Legislation Amendment \(Victorian Institute of Teaching, TAFE and Other Matters\) Bill 2018](#)
- [Justice Legislation Amendment \(Access to Justice\) Bill 2018](#)
- [Liquor and Gambling Legislation Amendment Bill 2018](#)
- [Long Service Benefits Portability Bill 2018](#)

## Victorian Assents

No Victorian Acts were assented to since the last Library Bulletin.

## Proclamations

The following Victorian Act proclamations have been made since the last Library Bulletin:

- *Family Violence Protection Amendment (Information Sharing) Act 2017* No. 23/2017
  - Section 37 of this Act came into operation on 12 March 2018 s.2(7)
- *Gambling Legislation Amendment Act 2018* No. 9/2018
  - Sections 1-5, 10, 12-17, 19-25, 27-31 of this Act came into operation on 15 March 2018 s.2(1)
- *Medical Treatment Planning and Decisions Act 2016* No. 69/2016
  - Sections 1-161 of this Act came into operation on 12 March 2018 s.2(2)
- *Ports and Marine Legislation Amendment Act 2017* No. 55/2017
  - Section 32 of this Act came into operation on 12 March 2018 s.2(2)
- *Racing Amendment (Modernisation) Act 2018* No. 10/2018
  - Sections 1-9 of this Act came into operation on 15 March 2018 s.2

No Victorian Acts have come into operation by forced commencement since the last Library Bulletin.



## EXHIBITIONS IN THE LIBRARY

### Argus from 100 years ago

The Supreme Court Library has the Argus newspaper from 1918 on display.

The page is turned daily and provides an insight into what was happening 100 years ago to the day.

A snapshot is provided via the Law Library of Victoria Twitter account. You can follow these tweets via @lawlibraryvic #argus1918

## High Court Cases

CONSTITUTIONAL LAW (CTH) - Parliamentary elections - Common informer action - Where plaintiff commenced common informer action in original jurisdiction of High Court - Where liability to penalty under Common Informers (Parliamentary Disqualifications) Act 1975 (Cth) requires determination of whether defendant incapable of sitting as member of House of Representatives - Whether High Court has jurisdiction to determine eligibility of member of House of Representatives in common informer action - Proper construction of s46 of Constitution - Proper construction of s47 of Constitution.

WORDS AND PHRASES - "common informer", "common informer action", "Court of Disputed Returns", "declared by the Constitution", "declared by this Constitution", "exclusive cognisance", "incapable of being chosen or of sitting", "jurisdiction", "until the Parliament otherwise provides".

***Alley, Peter v Gillespie, David***

[\[2018\] HCA 11](#)

21/03/2018

CONSTITUTIONAL LAW (CTH) - Parliamentary elections - Reference to Court of Disputed Returns - Where Ms Skye Kakoschke-Moore and Mr Timothy Storer nominated for election as senator for State of South Australia as nominees of Nick Xenophon Team ("NXT") - Where Ms Kakoschke-Moore listed as third of four in order of NXT candidates, before Mr Storer - Where Ms Kakoschke-Moore returned as elected - Where Ms Kakoschke-Moore was British citizen at time of nomination - Where Ms Kakoschke-Moore subsequently renounced British citizenship - Where Mr Storer ceased to be member of NXT - Where Ms Kakoschke-Moore held incapable of being chosen or of sitting by reason of s44(i) of Constitution - Whether vacancy in Senate should be filled by declaring Ms Kakoschke-Moore as elected - Whether Ms Kakoschke-Moore should be included in special count - Whether Mr Storer should be excluded from special count.

WORDS AND PHRASES - "above the line", "electoral choice", "electoral process", "incapable of being chosen or of sitting", "political party", "process of being chosen", "special count", "true legal intent of the voters".

***In the matter of Questions Referred to the Court of Disputed Returns Pursuant to Section 376 of the Commonwealth Electoral Act 1918 (Cth) Concerning Ms Skye Kakoschke-Moore***

[\[2018\] HCA 10](#)

21/03/2018

CRIMINAL LAW - Appeal against conviction - Murder and manslaughter - Intention to kill or cause grievous bodily harm - Incorrect advice - Where appellant's case was that he had not intended to kill or cause grievous bodily harm - Where appellant incorrectly advised that giving evidence would likely lead to cross-examination on prior convictions - Where chance of cross-examination on prior convictions possible but not likely due to s15(2) of Evidence Act 1977 (Q) - Where appellant's account of incident to his solicitor inconsistent with prior statements to police - Where appellant was correctly advised that giving evidence would likely lead to cross-examination on inconsistencies - Where appellant gave evidence on appeal that had he been physically and mentally well and absent the incorrect advice he would have given evidence at trial - Where no evidence to suggest trial would have been conducted differently absent the incorrect advice - Whether no miscarriage of justice.

WORDS AND PHRASES - "criminal history", "cross-examination", "decision not to give evidence", "fair trial", "inconsistent evidence", "incorrect advice", "intent", "intoxication", "miscarriage of justice", "murder", "prior convictions".

***Craig, Ronald Michael v The Queen***

[\[2018\] HCA 13](#)

21/03/2018

EQUITY - Where judgment given by Supreme Court of South Australia, as varied by Full Court of Supreme Court of South Australia - Where successful party engaged in malpractice - Where malpractice later discovered - Where perfected judgment set aside - Where no pleading or proof of fraud - Nature of court's equitable power to set aside perfected judgment - Whether equitable power extends to malpractice not amounting to fraud - Whether power to set aside perfected judgment conditional upon unsuccessful party having exercised reasonable diligence to discover fraud or malpractice. Procedure - Perfected judgment - Rescission - Where two applications brought to set aside judgment - Where judgment set aside for malpractice - Whether proper course application in original proceeding or fresh action.

WORDS AND PHRASES - "actual fraud", "causation", "equitable jurisdiction", "equitable power", "equity", "finality", "fraud", "fresh action", "malpractice", "misconduct", "new trial", "not amounting to fraud", "perfected judgment", "perfected orders", "power", "proper application", "reasonable diligence", "setting aside".

***Clone P/L v Players P/L (In Liquidation) (Receivers & Managers Appointed) & Ors***

[\[2018\] HCA 12](#)

21/03/2018

# Victorian Supreme Court Cases

## Court of Appeal

ADMINISTRATIVE LAW - Victorian Civil and Administrative Tribunal (VCAT) - Refusal of leave to appeal from VCAT - Matter heard and determined by single member - Victorian Civil and Administrative Tribunal Act 1998, cl 46E(1) of sch 1, required VCAT be constituted by two members - Requirement removed by amendment to cl 46E(1) made after hearing and before determination - Whether VCAT properly constituted - Whether order within VCAT jurisdiction - Effect of transitional provision - Appeal allowed - VCAT order set aside - Proceeding remitted to VCAT - Victorian Civil and Administrative Tribunal Act 1998, cls 46E and 46F of sch 1 - Local Government Act 1989 s81J(1)(b), s249.

ADMINISTRATIVE LAW - Appeal - Paragraph of County Court statement of claim seeking costs in VCAT struck out - Where basis for strike out is VCAT order as to costs - Effect of invalidity of VCAT's order and remitter of proceeding to VCAT - Whether utility in County Court proceeding - Application for leave to appeal refused.

***Muto, Milvan Frank v Shepparton City Council***

Kyrou, McLeish JJA, and McDonald AJA

[\[2018\] VSCA 73](#)

27/03/2018

CONTRACT - Joint and several claims - Judgment in default - Settlement between judgment creditor and one judgment debtor - Effect of settlement on remaining judgment debtors - Common law rule that release of one joint or joint and several debtor releases all - Whether rule applied to release of judgment debt - Whether rule abrogated by Wrongs Act 1958, s24AA - Whether rule based on unity in underlying cause of action - Walker v Bowry (1924) 35 CLR 48 considered, Thompson v Australian Capital Television Pty Ltd (1996) 186 CLR 574 applied, Associated Retailers Ltd v Toys Unlimited Pty Ltd [2011] VSC 297 [183] disapproved - Wrongs Act 1958, s23A(1), s24AA.

CONTRACT - Construction - Onus - Whether settlement agreement construed as release or covenant not to sue - Where no evidence reflecting terms of agreement - Where admitted terms of agreement failed to establish release - Murray-Oates v Jjadd Pty Ltd (1999) 76 SASR 38, Pollak v National Australia Bank Ltd [2002] FCAFC 55, Associated Retailers Ltd v Toys Unlimited Pty Ltd [2011] VSC 297 considered.

PRACTICE AND PROCEDURE - Point of law raised on appeal - Whether exceptional circumstances allow point to be raised in interests of justice - Whether point could have been met with evidence at trial - Where no party at trial aware of current status of law - Coulton v Holcombe (1986) 162 CLR 1 applied.

***Harplex P/L (ACN 188 350 074) v Konstandellos, Nicolaos; Konstandellos, Alkiviadis; Dounias, Lambrini and Kelly & Chapman***

McLeish, Hargrave JJA, and McDonald AJA

[\[2018\] VSCA 67](#)

23/03/2018

CRIMINAL LAW - Appeal - Conviction - Aggravated burglary and intentionally causing serious injury - Extension of time - Fresh evidence - 'Burn' from shotgun mentioned in Victim Impact Statement inconsistent with evidence given at trial - Applicant denied opportunity to cross-examine witness as to credibility - Whether substantial miscarriage of justice occurred - Application for leave to appeal dismissed.

***Taha, Ahmed v The Queen***

Weinberg and Tate JJA

[\[2018\] VSCA 66](#)

22/03/2018

CRIMINAL LAW - Appeal - Conviction - Armed robbery, attempted armed robbery and reckless conduct endangering life - Identity of offender in issue - Where witness gave evidence of location of mobile phone allegedly used by appellant during offending - Where evidence given by reference to statistical probability of phone being in particular location at particular time - Whether trial judge erred in admitting evidence - Whether substantial miscarriage of justice - Appeal dismissed.

EVIDENCE - Admissibility - Opinion evidence - Where technical expert gave evidence of probability of mobile phone being in particular geographic area at particular time - Where probability expressed as percentage - Whether witness had 'specialised knowledge' to give evidence expressed as percentage - Evidence Act 2008 s76(1), s79(1).

CRIMINAL LAW - Appeal - Sentence - Armed robbery, attempted armed robbery and reckless conduct endangering life - Offender sentenced to 10 years and 6 months' imprisonment with non-parole period of 7 years and 6 months' imprisonment - Whether orders for cumulation excessive - Whether sentence manifestly excessive - Leave to appeal refused.

***Ward, Paul v The Queen***

Weinberg, Santamaria and Kyrou JJA

[\[2018\] VSCA 80](#)

28/03/2018

CRIMINAL LAW - Appeal - Conviction - One charge of aggravated burglary and one charge of common law assault - Conviction following trial by jury - Total effective sentence of three years and six months' imprisonment - Non-parole period of two years - Whether judge erred in direction to the jury about 'beyond reasonable doubt' - Whether jury verdicts unsafe and unsatisfactory - *Dookheea v The Queen* [2016] VSCA 67, *R v Dookheea* (2017) 347 ALR 529, *Green v The Queen* (1971) 126 CLR 28, discussed - Appeal dismissed.

***Hanlon, Craig v The Queen***

Tate, Kyrou JJA and Beale AJA

[\[2018\] VSCA 81](#)

28/03/2018

CRIMINAL LAW - Appeal - Sentence - Import a commercial quantity of a border controlled drug - Attempt - Whether sentence manifestly excessive - Applicant has no relevant priors - Early plea of guilty - Part of organising chain of drug enterprise - Serious offences - Application for leave to appeal against sentence dismissed - Criminal Code (Cth), s307.1(1), 11.1(1) & s302.2(1) - DPP (Cth) v Thomas (2016) 347 ALR 275.

***Chu, Wing Thi v The Queen***

Osborn and Beach JJA

[\[2018\] VSCA 65](#)

20/03/2018



CRIMINAL LAW - Appeal - Sentence - Possessing child pornography - Four years' imprisonment with non-parole period of two years and six months - Judge misinformed by prosecutor as to correct maximum sentence - Crown concession that error material - Appeal allowed - Re-sentence - Relevance of applicant's mental health - Combined sentence of imprisonment and community correction order appropriate - Applicant re-sentenced to 18 months' imprisonment which, having regard to 11 months' pre-sentence detention, leaves less than 12 months to serve - Accordingly, possible to combine with three year community correction order - Sentencing Act 1991 s44(1).

***O'Connor, Matthew Edward v The Queen***

Weinberg and Coghlan JJA

[\[2018\] VSCA 72](#)

26/03/2018

CRIMINAL LAW - Appeal - Sentence - Traffick in a commercial quantity of a border controlled drug - Whether sentence contravened the principle of parity - Whether there is a marked disparity between the sentences of co-offenders - Difference in the roles of co-offenders - Whether manifestly excessive - Applicant has no relevant priors - Early plea of guilty - Past family hardship - Limited role as conduit in criminal drug enterprise - Genuine remorse - Serious offending - Application for leave to appeal against sentence dismissed - Criminal Code (Cth), s302.2(1) - Postiglione v The Queen (1997) 189 CLR 295 - Lowe v The Queen (1984) 154 CLR 606 - DPP (Cth) v Thomas 347 ALR 275.

***Lim, Alan Aik Huat v The Queen***

Osborn and Beach JJA

[\[2018\] VSCA 64](#)

20/03/2018

CRIMINAL LAW - Appeal - Sentence - Unlawful and dangerous act manslaughter - Applicant sentenced to 8 years' imprisonment with non-parole period of 5 years - Death caused by single punch to head - Applicant had no prior convictions - Judge found community did not need to be protected from applicant - Whether judge erred in stating that specific deterrence was 'important' - Whether judge erred in not finding the offending was in 'lowest possible category' of seriousness - Whether sentence manifestly excessive - Leave to appeal refused.

***Lee, Andrew William v The Queen***

Kyrou JA

[\[2018\] VSCA 63](#)

21/03/2018

CRIMINAL LAW - Conviction - Appeal - Charges of rape and common assault - Special hearing under Part 3 of Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 - Jury finding that applicant committed offences of rape and common assault - Custodial supervision order imposed with nominal term of 25 years - Appeal against jury's finding on rape charge - Applicant suffers from intellectual disability - Expert evidence about intellectual disability's capacity to affect applicant's understanding that feigned consent was not true consent - Relevant expert evidence not led - Failure to lead relevant expert evidence resulted in miscarriage of justice - Special hearing unbalanced and unfair - Appeal allowed - Jury's finding that applicant committed offence of rape set aside - Custodial supervision order set aside - Matter remitted to County Court for rehearing - Crimes (Mental Impairment and Unfitness to be Tried) Act 1997, s15, s17, s18 and s28 - Evidence Act 2008, s80.

***Teague, Conan (a Pseudonym) v The Queen***

Weinberg, Beach and Hargrave JJA

[\[2018\] VSCA 77](#)

28/03/2018

CRIMINAL LAW - Election to renew application for leave to appeal against sentence - One charge of engaging in sexual intercourse with child outside Australia - One charge of engaging in sexual activity with child outside Australia - One charge of producing child pornography material outside Australia - One charge of knowingly possessing child pornography - Sentence of 5 years and 3 months' imprisonment with non-parole period of 3 years - Whether sentences imposed on two charges manifestly excessive - Whether Ellis discount given sufficient weight - Criminal Code Act 1995 (Cth) s272.8, s272.9 - R v Ellis [1986] 6 NSWLR 603 - Assheton v The Queen (2002) 132 A Crim R 237, R v ONA (2009) 24 VR 197, R v Wicks [2005] NSWCCA 409 considered - Leave to appeal granted - Appeal dismissed.

***Merrill, Elliott (a Pseudonym) v The Queen***

Weinberg JA and Kidd AJA

[\[2018\] VSCA 62](#)

20/03/2018

CRIMINAL LAW - Sentence - Appeal - Conspiracy to defraud the State of Victoria and receiving a secret commission - Sentenced to 8 years' imprisonment with non-parole period of 6 years - Whether sentence manifestly excessive - Whether guilty plea and assistance to prosecution given too little weight - Whether error in the assessment of the gravity of the offence of receiving a secret commission - Whether disparity with sentences imposed on co-offenders - Appeal dismissed.

***Ooi, Albert How v The Queen***

Tate, Beach and Niall JJA

[\[2018\] VSCA 78](#)

28/03/2018

CRIMINAL LAW - Sentence - Appeal - Conspiracy to defraud the State of Victoria and receiving secret commissions - Sentenced to 8 years and 9 months' imprisonment with non-parole period of 6 years and 3 months - Whether sentence on conspiracy charge manifestly excessive - Appeal dismissed.

***Wells, Barry John v The Queen***

Tate, Beach and Niall JJA

[\[2018\] VSCA 79](#)

28/03/2018

CRIMINAL LAW - Sentence - Appeal - Indecent assault (3 charges) - Sentence of imprisonment for 14 months - Whether sentence manifestly excessive - Fresh evidence - Whether evidence is fresh evidence - Whether sentencing discretion re-opened - No basis shown for re-opening sentencing discretion - Sentence not manifestly excessive - Application for leave to appeal refused.

***Khan, Hayat v The Queen***

Weinberg, Beach and Hargrave JJA

[\[2018\] VSCA 61](#)

19/03/2018

CRIMINAL LAW - Sentence - Application for leave to appeal against sentence - Applicant sentenced to 4 weeks' imprisonment on 21 charges of contempt of court - Whether judge erred in accepting submission on sentencing range - Whether judge erred in not considering whether sentence should be suspended - Manifest excess - Whether sentence manifestly excessive - Complaints of error not reasonably arguable - Complaint of manifest excess not reasonably arguable - Application for leave to appeal refused.

***Zhang, Ian Yan v Fortune Holding Group P/L; Fortune Holding Developments P/L; Fortune Homes P/L and Quan, Yi Jun***

Beach and Coghlan JJA

[\[2018\] VSCA 70](#)

23/03/2018

CRIMINAL LAW - Sentence - Crown appeal - Intentionally causing serious injury - Respondent sentenced to two years and four months' imprisonment with non-parole period of 14 months - Whether sentencing judge misapplied principles laid down in *Bugmy v The Queen* (2013) 249 CLR 571 - Claim of specific error rejected as Crown bound by concessions made at trial - Whether sentence manifestly inadequate - Appeal allowed - Respondent resentenced to six years' imprisonment with non-parole period of four years.

***Director Of Public Prosecutions [DPP] v L'Eveille, Louis***

Weinberg, Priest and Hargrave JJA

[\[2018\] VSCA 60](#)

19/03/2018

CRIMINAL LAW - Trial - Prasad direction or invitation - Right of jury to acquit after close of Crown case - Power of judge to inform jury of right to acquit - Judge required to assess cogency of Crown case - Reference of point of law by Director of Public Prosecutions - Whether Prasad direction contrary to law - Whether direction constitutes invitation to acquit - Whether interference with division of function between judge and jury - Direction not contrary to law - *R v Prasad* (1979) 23 SASR 161, *R v Pahuja* (1987) 49 SASR 191, *Doney v The Queen* (1990) 171 CLR 207 considered - Criminal Procedure Act 2009 s308.

***Director of Public Prosecutions [DPP] Reference No 1 of 2017***

Maxwell P, Weinberg and Beach JJA

[\[2018\] VSCA 69](#)

23/03/2018

MORTGAGES - Entitlement to surplus proceeds from mortgagee sale of land - Where respondent was registered proprietor and applicant was second mortgagee - Where respondent owed debt to applicant - Where affidavit evidence only - Whether judge correct to find on evidence that respondent had established that debt had been discharged - Leave to appeal refused.

***Secure Loan Solutions P/L v Smith, Derick Aubrey***

Niall, Hargrave JJA, and McDonald AJA

[\[2018\] VSCA 71](#)

26/03/2018

PLANNING AND ENVIRONMENT - Application for leave to appeal on questions of law from a decision of the Trial Division upon an appeal from the Victorian Civil and Administrative Tribunal - Whether Design and Development Overlay imposes a mandatory height limit - Schedule imposes discretionary height requirement - Power to vary height of roof structure or chimney does not 'specify otherwise' - Whether imposition of a condition directed to height of building by Tribunal was unreasonable - Leave granted in part - Appeal dismissed. WORDS AND PHRASES - 'should', 'specify otherwise'.

***Abercrombie, Shadda v Salter Architects and Minister for Planning***

Ferguson CJ, Tate and Osborn JJA

[\[2018\] VSCA 74](#)

28/03/2018

PRACTICE AND PROCEDURE - Application for leave to appeal - Registrar refused to seal applicant's writ - Judge directed registrar not to accept writ for filing - Application for leave to appeal dealt with by single judge of appeal without oral hearing - Judge at first instance plainly correct - No injustice in leaving interlocutory decision on question of practice and procedure unreversed - Application for leave to appeal totally without merit - County Court Civil Procedure Rules 2008, r5.04 and r27.06 - Supreme Court Act 1986, s14C and s14D.

***Muto, Milvan Frank v The City of Greater Shepparton; Crow, Robert Murray; Cator, Gavin; Dobson, Geoffrey; Hazelman, Christopher; Houlihan, Jenny; Crawford, Cherie; Oroszvary, Laslo; Adem, Dinny; Summer, Fern; Sutton, Shelly; Harriot, Peter; Parker, Russell; Salomon, Julie; Ryan, Kevin; Patterson, Dennis; Ellyand, Rachel; Wolf, David; Bennett, Russell; Polan, Michael; Freckelton, Dr Ian QC; Teitzel, Christopher and McPherson, Ross***

Beach JA

[\[2018\] VSCA 75](#)

27/03/2018

PRACTICE AND PROCEDURE - Application for leave to intervene by media organisations - Defamation proceedings - Issue concerning construction of s35 of Defamation Act 2005 - Media's interest in proper construction of s35 - Media wishing to support construction of s35 already being advanced by applicants - Whether media's contribution as interveners would be useful or different from contribution of applicants - Capacity of applicants to advance all relevant arguments - Application to intervene dismissed.

***Bauer Media P/L and Bauer Media Australia P/L v Wilson, Rebel Melanie Elizabeth and News Corp Australia; Nine Network Australia P/L; Seven West Media Ltd; Australian Broadcasting Corporation; Fairfax Media Ltd and Macquarie Media Ltd***

Tate and Beach JJA

[\[2018\] VSCA 68](#)

22/03/2018

STATUTORY INTERPRETATION - Meaning of phrase 'Criminal proceedings do not lie against a person by reason only' in s78 of Competition and Consumer Act 2010 (Cth) - Section refers to contraventions and ancillary contraventions of pt IV of Act - Whether phrase had effect of conferring immunity from criminal prosecution for any conduct falling within pt IV - Whether purpose of phrase limited to characterising proceedings for recovery of pecuniary penalties under s76 of the Act as civil rather than criminal - Competition and Consumer Act 2010 (Cth) s45D, s45E, s76, s77, s78, s79.

CRIMINAL LAW - Applicants charged with blackmail - Whether applicants immune from prosecution on basis that the conduct alleged would if proved constitute an ancillary contravention of pt IV of Competition and Consumer Act 2010 (Cth) - Whether judge erred in refusing to restrain Magistrates' Court from conducting committal hearing for blackmail charges - Application for leave to appeal granted - Appeal dismissed.

ADMINISTRATIVE LAW - Judge relied on documents obtained after hearing concluded without informing parties - Whether applicants denied procedural fairness - Whether outcome would have been different in absence of denial of procedural fairness.

WORDS AND PHRASES - 'Criminal proceedings do not lie against a person by reason only' - Competition and Consumer Act 2010 (Cth) s78.

***Reardon, Shaun v Magistrates' Court of Victoria and Andrew, Detective Acting Sergeant Rodney; Setka, John v Magistrates' Court of Victoria and Andrew, Detective Acting Sergeant Rodney***

Weinberg, Beach and Kyrou JJA

[\[2018\] VSCA 76](#)

28/03/2018

## Commercial Court

CONTRACT - Specific performance - Building and construction contract - Contract required the contractor to provide two unconditional bank guarantees of an approved type - Where guarantees with expiry dates provided - No express approval - Whether approval can be inferred from conduct - Guarantees 'approved' by conduct within the meaning of the contract - Proceeding dismissed.

***PHHH Investments No 2 P/L (ACN 602 191 506) v United Commercial Projects P/L (ACN 110 860 360) and Mclver, Harry***

Riordan J

[\[2018\] VSC 92](#)

02/03/2018

CORPORATIONS - GST refund owed to one entity applied to tax debt of related entity - Whether transaction was an uncommercial transaction - Whether transaction was an unfair preference - Whether characterisation of the relevant transaction should include post-liquidation events - Whether company insolvent at relevant time - Whether good faith defence available - Whether section 588FF of the Corporations Act 2001 (Cth) confers a discretion or jurisdiction on the Court - Corporations Act 2001 (Cth), s588FB, s588FA, s588FF, s588FG.

***Calvisi, Dino (in his capacity as liquidator of Cyberduck Software P/L (In Liquidation) (ACN 075 497 415) and liquidator of B.A.S (R&D) P/L (In Liquidation) (ACN 060 882 224)); Cyberduck Software P/L (In Liquidation) (ACN 075 497 415) and B.A.S (R&D) P/L (In Liquidation) (ACN 060 882 224) v Commissioner of Taxation***

Efthim AsJ

[\[2018\] VSC 122](#)

23/03/2018

CORPORATIONS - Plaintiff's proceeding claims relief for oppressive conduct under Part 2F.1 of the Corporations Act 2001 (Cth) - Defendant to plaintiff's proceeding files counterclaim in respect of alleged breach of contractual arrangements by the defendants to counterclaim which only involve the plaintiff on the periphery - Application to strike out counterclaim without prejudice to assert the counterclaim in a separate proceeding pursuant to rule 10.06(c) of the Supreme Court (General Civil Procedure Rules) 2015 - Application for alternative orders that there be separate trials of the claim and counterclaim under rule 10.06(a) - Held, striking out counterclaim, that if counterclaim is heard with principal proceeding, will delay the hearing of the plaintiff's proceeding - Little 'overlap' - Not convenient to be heard at the same time as the plaintiff's proceeding - Counterclaim struck out.

***Li, Qiang v Officar P/L (ACN 142 983 042); Petropoulos, Christos; Global Resource Innovation P/L (ACN 128 673 683). And Between: Global Resource Innovation P/L (ACN 128 673 683); Petropoulos, Christos; Officar P/L (ACN 142 983 042) and Petropoulos, Jacqueline v Li, Qiang; Li, Minghai; Zhang, Aiping; Hausen Resources Pte Ltd and Hausen Resource P/L (ACN 126 690 248)***

Gardiner AsJ

[\[2018\] VSC 125](#)

09/02/2018

PRACTICE AND PROCEDURE - Application for summary judgment by defendant under Civil Procedure Act 2010 (Vic) Part 4.4 (CPA) - Action brought in name of two entities against contamination consultant - Where claims of parent company in contract, negligence and misrepresentations under Australian Consumer Law - Whether subsidiary company suffered loss - Whether contractual limitation period applied - Whether claim misconceived given contamination always present - Whether no real prospect of success in claims - Whether discretion ought to be exercised under s64 of the CPA.

***Amcor Ltd (ACN 000 017 372) and Orora Ltd (ACN 004 275 165) v Peter J Ramsay & Associates P/L (ACN 005 842 393)***

Kennedy J

[\[2018\] VSC 75](#)

22/03/2018

PROCEDURE AND PRACTICE - Application under r66.6 of the Supreme Court (General Civil Procedure) Rules 2005 - Relevant considerations for a stay - Consideration of issue waiver - Special circumstances not established - Stay refused.

***Slea P/L v Connective Services P/L & Ors (No 2)***

Robson J

[\[2018\] VSC 128](#)

27/03/2018

## Common Law Division

ADMINISTRATIVE LAW - Judicial review - Medical panel - Determination by medical panel that the worker had no post-injury work capacity, which was likely to last indefinitely - Whether medical panel made jurisdictional error in its consideration of motivation of worker to return to work - Whether medical panel took into account irrelevant consideration - No error - Whether medical panel's reasons for opinion were adequate - Reasons not inadequate - Proceeding dismissed - Wingfoot Australia Partners Pty Ltd v Kocak (2013) 252 CLR 480 - Workplace Injury Rehabilitation & Compensation Act 2013 (Vic), s3, s313 - Accident Compensation Act 1985 (Vic), s93, s5(2)(a), s134AB, s200, s201, s205.

***Menzies Aviation Group (Australia) P/L v Vegter, Brendan Francis; Ernest, Assoc Prof David; Haymam, Dr Brandan; Van Ammers, Dr Edmond; Travers, Dr Richard and Bourke, Mr John***

Kaye JA

[\[2018\] VSC 130](#)

28/03/2018

APPEAL - Magistrates' Court of Victoria - Whether magistrate erred in finding contract void for uncertainty - Whether magistrate erred in failing to find damages for compensable loss - Appeal allowed - Matter remitted to Magistrates' Court.

CONTRACT - Whether contract void for uncertainty - Whether failure to agree on price is essential term - Whether court may imply term into contract - Contract enforceable - Court will strive to infer failure to agree on price not essential term - Australian and New Zealand Banking Group v Frost Holdings Pty Ltd [1989] VR 695 - May and Butcher Ltd v R [1934] 2 KB 17 - Moonlighting International Pty Ltd v International Lighting Pty Ltd [2000] FCA 41 - Wenning v Robinson [1964] NSW 614.

DAMAGES - Whether plaintiff suffered compensable loss for loss of use of vehicle - Whether res inter alios acta applies - Whether distinction between direct loss and consequential loss - No distinction between direct loss and consequential loss in Australian common law - Anthanasopoulos v Moseley (2001) 52 NSWLR 262 - Burdis v Livsey [2002] EWCA Civ 510 - Dimond v Lovell [2000] 2 All ER 897 - Griffiths v Kerkemeyer (1977) 139 CLR 161 - Powercor Australia Ltd v Thomas [2012] VSCA 87 - Saric v Tehan (2011) 33 VR 632.

***Roehlen, Benjamin v Mikhail, Lucy***

T Forrest J

[\[2018\] VSC 121](#)

22/03/2018

CIVIL PROCEDURE - Application for reinstatement of proceedings - Consent orders - Interpretation of consent orders - Whether regard can be had to surrounding circumstances - Whether consent orders provided for reinstatement was unlimited in effect - Application dismissed.

***Shout Rocks Cafes P/L (ACN 007 168 809) and Guastalegname, Frank v City of Port Philip & Ors***

J Forrest J

[\[2018\] VSC 120](#)

21/03/2018



LEGAL PRACTITIONERS - VCAT recommendation that lawyer's name be removed from the roll of practitioners - Application that practitioner's name be removed - Professional misconduct - Previous professional disciplinary history of misconduct and unsatisfactory conduct - Order that practitioners name be removed from the roll - Supreme Court (Miscellaneous Civil Proceedings) Rules 2008, r14.13 - Legal Profession Uniform Law Application Act 2014, sch 1 s23(1)(c).

***Victorian Legal Services Commissioner v Kotsifas, John James***

J Forrest J

[\[2018\] VSC 114](#)

06/03/2018

NEGLIGENCE - Duty of care - Nervous shock - Agricultural accident - Death caused by alleged negligence of employer - Nervous shock suffered by wife of deceased after being told of husband's death - Deceased intoxicated at time of accident - Whether evidence of intoxication admissible - Whether duty of care owed to plaintiff - Scope of duty owed to deceased - Whether employer breached duty - No evidence that employer breached duty - Wyong Shire Council v Shirt (1980) 146 CLR 40 applied - Gifford v Strang Patrick Stevedoring Pty Ltd (2003) 214 CLR 269; Homsy v Homsy [2016] VSC 354; Hardy v Mikropul Australia Pty Ltd [2010] VSC 42 discussed - Transport Accident Act 1986 s93; Road Safety Act 1986 s56-7.

***Puleio, Sandra v Olam Orchards P/L***

Zammit J

[\[2018\] VSC 109](#)

21/03/2018

NEGLIGENCE - Duty of care - Scope of duty - Psychiatric injury - Workplace bullying - Whether employer breached common law or statutory duty - Whether injury reasonably foreseeable - No evidence of bullying - Injury not reasonably foreseeable - Proceeding dismissed - Koehler v Cerebos (Aust) Ltd (2005) 222 CLR 44 applied - Brown v Maurice Blackburn Cashman (2013) 45 VR 22; Swan v Monash Law Book Co-operative [2013] VSC 326; Govic v Boral Australian Gypsum Pty Ltd (2015) 47 VR 430 considered - Accident Compensation Act 1985 s143AB; Occupational Health and Safety Act 2004 s34.

TERMINATION OF EMPLOYMENT - Application for unfair dismissal remedy - Whether genuine redundancy - Claim settled - Whether release executed under duress - No evidence of duress - Westpac Banking Corporation v Cockerill (1998) 152 ALR 267 followed - Workplace Relations Act 1996 s353.

***Hingst, David v Construction Engineering (Aust) P/L (ABN 623 9278 1199) (No 3)***

Zammit J

[\[2018\] VSC 136](#)

29/03/2018

PRACTICE AND PROCEDURE - Group Proceeding - Supervision of settlement distribution scheme - Application for extension of time for payment of distribution sum - Extension granted - Application to admit late registrants to participate in settlement - Blairgowrie Trading Ltd & Anor v Allco Finance Group Ltd (recs and mgrs apptd) (in liq) & Ors (2017) 343 ALR 476, distinguished - Relevant considerations - Late registration refused.

***Kamasae, Majid Karami v The Commonwealth of Australia & Ors (in accordance with the attached schedule) (Ruling on the settlement distribution)***

Macaulay J

[\[2018\] VSC 138](#)

27/03/2018

PRACTICE AND PROCEDURE - Undertaking to the Court to maintain the status quo in relation to trust property - Mortgage granted to trustee of a discretionary trust to secure loan to first defendant as a beneficiary of the trust - Discharge of mortgage over first defendant's property in order to raise funds on first mortgage to pay legal fees in the proceeding - Application to vary undertaking to enable discharge of mortgage - Where undertaking restricts first defendant's ability to fund the defence of the proceedings - Sufficiency of moneys available to discharge mortgage - Balance of justice - Application refused.

LIMITATION OF ACTIONS - Whether s5(7) of the Limitation of Actions Act 1958 (Vic) applies to limit interest payments on discharge of mortgage where no proceedings for recovery of interest commenced - Limitation provision bars the remedy but does not extinguish the right to interest - Mortgagor entitled to payment of interest in full without limitation - Australia and New Zealand Banking Group v Douglas Morris Investments Pty Ltd [1992] 1 Qd R 478; Commonwealth Bank of Australia v Sammut [2000] VSC 374 applied.

**Hall, Gregory Thomas v Hall, Thomas Lynden; Rhyse Holdings P/L (ACN 051 910 500) (including in its capacity as trustee of the Scott Forrest Trust); Camback Nominees P/L (ACN 006 611 954) (including in its capacity as trustee of the Reid Street Unit Trust); Garth Investments P/L (ACN 006 943 111) (including in its capacity as trustee of the Garth Unit Trust) and Davis, David Ronald (including in his capacity as the executor of the estate of Heather Joyclyn Hall, deceased)**

Derham AsJ

[\[2018\] VSC 131](#)

27/03/2018

PREROGATIVE WRITS - Habeas corpus - Plaintiff inpatient at Royal Melbourne Hospital - Proceeding dismissed without adjudication on the merits - Supreme Court (General Civil Procedure) Rules 2015 O 57.

CAPACITY - Whether plaintiff person under disability - Whether plaintiff requires litigation guardian to continue proceeding - Where Office of Public Advocate appointed temporary limited guardian of plaintiff by Victorian Civil and Administrative Tribunal - Where Public Advocate does not consent to being appointed litigation guardian - Supreme Court (General Civil Procedure) Rules 2015 Order 15.

PRACTICE AND PROCEDURE - Parties - Whether second plaintiff had interest in proceeding - Claims by second plaintiff dismissed - Second plaintiff removed as party from proceeding.

PRACTICE AND PROCEDURE - Parties - Representation - Whether leave should be given to former second plaintiff to represent plaintiff in proceeding - Leave refused.

**Giurina, Licia v Melbourne Health trading as The Royal Melbourne Hospital**

John Dixon J

[\[2018\] VSC 143](#)

26/03/2018

RESTITUTION - Work and labour done - Building contract - Wrongful repudiation accepted by builder - Quantum meruit as alternative to contract damages - Measure of value - Relevance of contract price - Relevance of builder's actual costs - Undocumented variations to scope of works - Whether such variations affect quantum meruit claim by virtue of Domestic Building Contracts Act 1995 s38.

ADMINISTRATIVE LAW - Appeal from VCAT on questions of law - Whether VCAT erred in law in calculating quantum meruit for building work - No error of law - Appeal dismissed - Victorian Civil and Administrative Tribunal Act 1998 s148.

***Mann, Peter and Mann, Angela v Paterson Constructions P/L***

Cavanough J

[\[2018\] VSC 119](#)

19/03/2018

WILLS AND ESTATES - Application by beneficiaries under s34 of the Administration and Probate Act 1958 (Vic) for removal of executors - Failure of executors to respond to beneficiaries' requests for information concerning the administration of estate - Whether executors are required to account to beneficiaries in relation to administration of estate, including where hostility exists between executors and beneficiaries - *Czapp v Cassar and Caldwell* [2015] VSC 111, referred to - *Denby v Power & Anor* [2016] VSC 535, referred to - *Re Anthony; Rogan v Rogan* [2017] VSC 668, referred to - *Letterstedt v Broers* (1884) 9 App Case 371, referred to - Solicitor's fees covered costs incurred from administration of the estate in addition to his time and expenses in dealing with beneficiaries' complaints against him to the Legal Services Commissioner and in defending summons for taxation of costs - Whether executors improperly incurred costs by agreeing to the charging of excessive solicitors' fees for the estate's administration, with effect of eroding estate's funds - Executors breached duty to beneficiaries - Executors removed.

COSTS - Application by beneficiaries for taxation with respect to bills rendered to deceased estate by solicitor for the estate - Whether beneficiaries have standing - Whether beneficiaries are out of time to bring proceedings - Whether beneficiaries meet definition of a 'third party payer' under s3.4.2A of the Legal Profession Act 2004 (Vic) - *Hamilton v Russell Kennedy Pty Ltd (a firm) ('Hamilton')* [2012] VSC 176, referred to - *Amos v Ian K Fry & Company* [2010] QCA 131, referred to - *Legal Services Commissioner v Wright* [2010] QCA 321, referred to - Legal Profession Act 2004 (Vic), s3.4.2A and 3s.4.38(6) - Beneficiaries had no standing to issue proceeding - Whether proceeding brought out of time - Whether extension of time would be allowed.

***Richardson, Rhonda; Johnson, Beryl; John Edwards; Johnson, Raelene v Johnson, Peter W. And Between: Richardson, Rhonda; Johnson, Beryl; Edwards, John and Johnson, Raelene v Olsen, Lorraine Joy (as Legal Personal Representative of the Estate of Dorothy Irene Edwards) and Olsen, Kerry (as Legal Representative of the Estate of Dorothy Irene Edwards)***

Daly AsJ

[\[2018\] VSC 85](#)

08/03/2018

## Criminal Division

CRIMINAL LAW - Application for bail - Charges of kidnapping, false imprisonment and unlawful assault - Whether conditions ameliorate unacceptable risk - Bail granted with conditions - Bail Act 1977.

***In the matter of the Bail Act 1977 and In the matter of an Application for Bail by Petkowski, Arthur***

Champion J

[\[2018\] VSC 123](#)

23/03/2018

CRIMINAL LAW - Application for bail - Children's Court - Offences involving reckless conduct, stolen goods and committing an indictable offence whilst on bail - Show cause situation - Significant criminal history - Breach of youth supervision orders - Vulnerable in a custodial setting - Whether applicant poses an unacceptable risk - Bail granted with conditions - Bail granted on a provisional two week basis - Bail Act 1977.

***In the matter of the Bail Act 1977 and In the matter of an Application for Bail by N H***

Champion J

[\[2018\] VSC 118](#)

19/03/2018

CRIMINAL LAW - Sentence - Contempt of the Chief Examiner - Refusal to take oath or make affirmation - Contempt in respect of examination into serious alleged offences - Deliberate and flagrant conduct deserving strong denunciation - General and special deterrence - Restrictive management regime will substantially increase the burden of time in custody - Sentence of 8 months' imprisonment - Major Crime (Investigative Powers) Act 2004 s49.

***The Queen (on the application of the Chief Examiner) v Murray, Michael (Contempt Sentence)***

Riordan J

[\[2018\] VSC 133](#)

28/03/2018

CRIMINAL LAW - Sentence - Manslaughter - Offender stabbed domestic partner - Background of family violence - Deceased attempted to prevent offender from leaving house - Offender inflicted single stab wound in dangerous action - Imprisonment more burdensome due to PTSD and major depressive disorder - Plea of guilty - Genuine remorse - Sentenced to 7 years' imprisonment with a non-parole period of 4 years.

***Director of Public Prosecutions [DPP] v Walker, Elise***

Hollingworth J

[\[2018\] VSC 83](#)

28/03/2018

CRIMINAL LAW - Sentence - Manslaughter - Unlawful and dangerous act - Single stab wound with knife - Longstanding animosity between offender and deceased - Spontaneous act in course of fight - Young offender - Substantial prior convictions - Substance abuse - Sentenced to 9 years' imprisonment with non-parole period of 5 years.

***Director of Public Prosecutions [DPP] v Gillin, Odin***

Hollingworth J

[\[2018\] VSC 102](#)

28/03/2018

# County Court of Victoria Cases

Following is a selection of cases recently handed down in the County Court of Victoria.

These cases have been selected for inclusion by the presiding judge. If you would like your judgment added to the Library Bulletin, please email the reference librarian in your jurisdiction.

CONTEMPT OF COURT - Civil contempt - Breach of judgment order to deliver up equipment - Whether personal service of judgment order effected under Rule 6.03 of the County Court Civil Procedure Rules 2008 - Contempt of court proven.

***Marubeni Equipment Finance (Oceania) Pty Ltd v Harris***

[\[2018\] VCC 267](#)

Judge A Ryan

16/03/2018

CONTRACT - Terms - Construction - Implied terms - Implied duty to co-operate.  
TRADE PRACTICES - Misleading and deceptive conduct - Measure of damages - Loss of opportunity to renegotiate terms of agreement.

ESTOPPEL - Promissory estoppel - Estoppel by waiver.

PRACTICE AND PROCEDURE - Departure from pleadings.

***Kalibrate Asset Management Solutions Pty Ltd v IBM Australia Limited***

[\[2018\] VCC 332](#)

Judge Cosgrave

23/03/2018

CONTRACTS - LEASE - Master Finance Lease Agreement (MFLA) entered setting up terms and conditions for future leases by company - Guarantee of company's obligations under MFLA - Whether leases of three cars were entered into pursuant to MFLA - Leases not entered into - Nothing owing under guarantee - Judgment for the defendant.

CIVIL PROCEDURE - TRIAL - Application to reopen case to adduce evidence - Application refused.

***Fleet Partners v Salikin***

[\[2018\] VCC 249](#)

Judge Marks

16/03/2018

PRACTICE AND PROCEDURE - Error in default judgment - Application to amend judgment - Construction of the slip rule - Effect of amendment would be to substitute party named as judgment creditor - Disclosure of judicial subjective intention - Concurrent second application to set aside default judgment - Amendment of judgment allowed - Application to set aside dismissed.

***Finder Earth Pty Ltd v BN & SK Pty Ltd (No 2)***

[\[2018\] VCC 288](#)

Judge Woodward

20/03/2018

# Articles

Listed below are articles indexed by the Library from journals added to our collections over the past two weeks.

Members of the Judiciary and Court staff, please contact your jurisdictional librarian if you require copies. Members of the legal profession and the public can view the journals in the Supreme Court Library.

## Aboriginal law

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Native title - Land rights - Terra nullius - Mabo v Queensland - Akiba v Commonwealth - Wik Peoples v Queensland - Australia  
**Webb, R.** "The birthplace of native title: from Mabo to Akiba." (2017) 23 JCULR 31-40.

Native title - Mabo v Queensland - Yorta Yorta v Victoria - Native Title Act 1993 (Cth) - Land rights - Queensland  
**Davies, C.** "Native title in Queensland twenty-five year's post-Mabo." (2017) 23 JCULR 103-112.

## Constitutional Law

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Commonwealth Constitution - Federation - Constitutional system - Political reform - Constitutional reform - Formation - Constitutional models - Comparative analysis - USA - Germany - Austria - Australia  
**Gussen, B.** "On the territorial evolution of the Australian federation in the 21st century." (2016-2017) 22 JCULR 15-39.

Religious institutions - Australian Constitution, s116 - Freedom of religion - Religious charities - Religious interpretation - Financial benefits - Taxation - Charity governance - The Church of the New Faith v Commissioner of Pay-roll Tax - Federal Commissioner of Taxation v Word Investments Ltd - Scientology - Catholic church - Hillsong - Australia  
**Spencer, A.** "Does freedom of religion imply freedom of religious trade?" (2016-2017) 22 JCULR 81-117.

## Criminal Law & Procedure

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Evidence - Admissibility - Similar fact evidence - Propensity evidence - Doctrine of precedent - Phillips v The Queen - Pfenning v The Queen - R v O'Keefe - Queensland  
**Davies, C. and L. Neal.** "Phillips v The Queen: a doctrine of precedent case?" (2016-2017) 22 JCULR 119-127.

Undue influence - Religious faith - Spiritual influence - Political views - Religious figures - Human rights - Freedom of expression - Voting - Corruption - Electoral Act 1993 (NZ), part7, s218 - Social media - Taylor v Key - Rahman v Khan - Erlam v Rahman - Law reform - Comparative analysis - UK - NZ  
**Westaway, T. and J. Aaronson.** "Religion and politics: the future of the offence of spiritual undue influence." [2018] (February) NZLJ 32-35.

## Evidence

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Expert evidence - Statistical evidence - Epidemiological evidence - Forensic science - DNA profiling - Mathematics - Probabilistic reasoning - Technologies - Interpretation - Comprehension - UK  
**McCaul, C.** "The challenge of expert evidence." [2018] (Feb) Counsel 28-30.  
**FAMILY LAW**

Child relocation - International relocation - Divorce - Children - Custodial parents - Best interest of the child - Child welfare - Human rights - Payne v Payne - Re B (Relocation Appeal) - M v F - Re AZ (A Child) - Re K (Child) - Re M (Children) - S v S (Relocation) - L v F - Re C (Internal Relocation) - NJ v OV - UK  
**Beatson, K. and V. Brown.** "Relocation, relocation, relocation." (2018) 168(7768) NLJ 9-10.

## Human Rights

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Right of property - Social aspects - Law reform commission - ALRC report no 129 - Australian Constitution - Australia  
**Croucher, R.** "The common law and the protection of rights, freedoms and privileges: insights from the ALRC freedoms inquiry." (2016-2017) 22 JCULR 1-14.

## Legal Profession

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Judges - Judicial diversity - Recruitment - Judicial appointments - Change - Ethnic diversity - Community engagement - UK  
**McLean, J.** "What do judges look like?" [2018] (Feb) Counsel 20-21.

Personalia - Lord Justice Rupert Jackson - Retirement - Lords Justices of Appeal - Judiciary - Costs - Litigation - UK  
**Regan, D.** "Jackson LJ: a lasting legacy." (2018) 168(7768) NLJ 7.

Queen's Counsel - Senior Counsel - Barristers - Appointments - Diversity - Women - Merit - UK  
**Wurtzel, D.** [2018] (Feb) Counsel 16-18.

## Military Law

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Australian Defence Force - Compensation claims - Government Procurement (Judicial Review) Bill 2017 (Cth) - Public Governance, Performance and Accountability Act 2013 (Cth) - Commonwealth Procurement Rules (Cth) - Legislative changes - Law reform - Australia  
**Langos, C. and A. Edgar.** "Proposed changes to the government procurement complaints mechanism & the potential effect on defence procurement." (2018) 40(2) LSB 18-20.

Veterans - Military compensation claims - Injury - Post traumatic stress disorder - Military Rehabilitation and Compensation Act 2004 (Cth) - Australia  
**White, T.** "Compensating our defence personnel: why the system is so complex." (2018) 40(2) LSB 8-10.

## Practice & Procedure

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Time limits - Limitation periods - Cause of action - "stroke of midnight" - *Matthew & Ors v Sedman & Ors* - *Gelmini v Moriggia* - *Marren v Dawson* - UK  
**Willink, D.** "Out of time?" (2018) 168(7768) NLJ 14.

## Succession

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Wills - Court authorised wills - Statutory wills - Succession Act 1981 (Qld) - Mental capacity - Minors - Mental Health Act 1959 (UK) - Substituted judgment - Family court proceedings - Costs - Bankruptcy - *Re Fenwick & Re Charles* - *VMH v SEL* - Queensland - Victoria - UK - Australia  
**Collins, A.** "Estate planning for a testator who lacks capacity: court-authorized wills in Queensland." (2016-2017) 22 JCULR 63-79.

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- High Court, Supreme Court of Victoria Court of Appeal and Trial Division judgments.

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- The largest portrait in the library is of John Schutt, the first librarian, who died in office after 54 years in the position.

