

# CRIMINAL LAW JOURNAL

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## ARTICLES

### THE FEDERAL CRIMINAL JUSTICE SYSTEM: A NEW DIRECTION

**Darren Renton**

An analysis of the present state of the federal criminal justice system highlighting inadequacies and suggesting large-scale reform. The creation of an independent federal criminal court system is proposed. ....

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### WARNINGS OCCASIONED BY DELAY IN PAEDOPHILE PROSECUTIONS

**C R Williams**

Cases in which alleged sexual offences against children are tried years after the event raise significant difficulties of proof for both prosecution and defence. A balance must be achieved between protecting the accused from unfounded accusations and ensuring that victims are not denied vindication. The High Court was correct in *Longman v The Queen* (1989) 168 CLR 79; 43 A Crim R 463 in requiring the jury be warned against the danger of convicting in such cases on the evidence of the complainant alone. The High Court was, however, not correct in *Doggett v The Queen* (2001) 119 A Crim R 416; 75 ALJR 1290 in requiring a warning as to the forensic disadvantage occasioned to an accused as a consequence of delay. These matters should be dealt with as part of the judge's direction on burden and standard of proof. ....

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### RETRIAL OF ACQUITTED PERSONS: TIME FOR REFORM OF THE DOUBLE JEOPARDY RULE?

**Dr Chris Corns**

Principles relating to prohibitions against double jeopardy have been a cornerstone of criminal justice administration in all common law countries for hundreds of years. At the same time, the law has developed a number of exceptions to the basic rule that a person cannot be "put in jeopardy" more than once for the same criminal offence. However, significant inroads have recently been made to traditional double jeopardy doctrines by appellate decisions in New Zealand and the United Kingdom concerning similar fact evidence and prior acquittals. Moreover, law reform commissions in the United Kingdom

and New Zealand have recommended sweeping changes to double jeopardy rules by permitting, in limited circumstances, retrial of persons acquitted of serious offences and the respective governments have introduced legislation to implement those recommendations. In Australia, the New South Wales Government has recently announced its intention to overhaul principles of double jeopardy, and the Victorian Government has announced its intention to consider possible reforms to prevent acquittals based on erroneous judicial directions. This article considers whether reforms to traditional principles of double jeopardy can be justified in Australia. It is suggested that a case can be made for both permitting retrial of acquitted persons in a narrow range of circumstances, and permitting prosecution appeals against various forms of erroneous judicial directions which have resulted in an acquittal. ....80

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  - 5. Austin, n 4, p 56.

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