

CRIMINAL LAW JOURNAL

Volume 30, Number 5

October 2006

THEMATIC SENTENCING ISSUE – CALL FOR PAPERS 269

EDITORIAL

Directing traffick and the death penalty: Policing the borders of drug law enforcement – *Simon Bronitt* 270

ARTICLES

Trial by jury: A political analysis – *Vincent Thackeray*

The High Court cases on s 80 of the *Constitution* confirm that the Commonwealth Parliament is empowered to determine whether trial by jury will apply to Commonwealth offences. However, several High Court judges have argued that this power is limited by reference to the seriousness of an offence. This has triggered a debate about whether s 80 allows Parliament to unconditionally determine whether an offence will be tried by jury. Because the s 80 debate focuses on the High Court's interpretations of s 80, it ignores any consideration of the limits that Parliament has imposed upon itself when it has ascribed trial by jury to Commonwealth offences. By investigating the jury trial benchmark limits that Parliament has developed since Federation, this article challenges the view that Parliament has an unlimited power to deny a defendant the right to a trial by jury. It concludes that the federal courts have an important role to play in protecting the constitutional rights of any Australians who are unjustly denied a trial by jury. 275

CONTEMPORARY COMMENT

Inciting racial violence as sedition: A problem of definition? – *Dan Meagher* 289

CRIMINAL LAW PRACTICE

So you think traffic offences are simple? Camera-detected offences in NSW – *Roger Brown* 302

CASE AND COMMENT

Rush v Commissioner of Police – *Miriam Gani and Wendy Kukulies-Smith* 314

DIGEST OF CRIMINAL LAW CASES 322

Guidelines for Contributors

Submission and licence agreement instructions

All contributions to the journal are welcome and should be sent, with a signed licence agreement, to the Production Editor, *Criminal Law Journal*, Lawbook Co., PO Box 3502, Rozelle, NSW 2039 (mail), 100 Harris St, Pyrmont, NSW 2009 (courier) or by email to crimlj@thomson.com.au, for forwarding to the Editor. Licence agreements can be downloaded via the internet at http://www.thomson.com.au/support/as_contributors.asp. If you submit your contribution via email, please confirm that you have printed, signed and mailed the licence agreement to the attention of the Production Editor at the mailing address noted above.

Letters to the Editor

By submitting a letter to the editor of this journal for publication, you agree that Thomson Legal & Regulatory Limited, trading as Lawbook Co., may edit and has the right to, and may license third parties to, reproduce in electronic form and communicate the letter.

Manuscript

- Manuscript must be original, unpublished work that has not been submitted for publication elsewhere.
- Personal details (name, qualifications, position) for publication and a delivery address, email address and phone number must be included with the manuscript.
- Manuscript must be submitted electronically via email or on disk in Microsoft Word format.
- Manuscript should not exceed 10,000 words for articles or 2,000 words for section commentary or book reviews. An abstract of 100-150 words is to be submitted with article manuscripts.
- Proof pages will be sent to contributors. Authors are responsible for the accuracy of case names, citations and other references. Excessive changes to the text cannot be accommodated.
- Contributors of articles receive 25 free offprints of their article and a copy of the part in which the article is published. Other contributors receive a copy of the part to which they have contributed.
- This journal complies with the Higher Education Research Data Collection (HERDC) Specifications for peer review. Each article is, prior to publication, reviewed in its entirety by a suitably qualified expert who is independent of the author.

Style

- 1 **Levels of headings should be clearly indicated (no more than four levels).**
- 2 **Cases:**
 - Case citation follows case name. Where a case is cited in the text, the citation should follow immediately rather than as a footnote. Give at least two and preferably all available citations, the first listed being the authorised reference.
 - Australian citations should appear in the following order: authorised series; Lawbook Co./ATP series; other company series (ie CCH, Butterworths); media neutral citation.
 - “At” references should only refer to the best available citation, eg: *Mabo v Queensland [No 2]* (1992) 175 CLR 1 at 34; 66 ALJR 408; 107 ALR 1.
 - Where only a media neutral citation is available, “at” references should be to paragraph, eg: *YG v Minister for Community Services* [2002] NSWCA 247 at [19].
 - For international cases best references only should be included.
- 3 **Legislation should be cited as follows:**
Trade Practices Act 1974 (Cth), s 51AC. The full citation should be repeated in footnotes.
- 4 **Books should be cited as follows:**
Macken JJ, O’Grady P, Sappideen C and Warburton G, *The Law of Employment* (5th ed, Lawbook Co., 2002) p 55.
 - In footnotes do not use *ibid* or *op cit*. The following style is preferred:
 4. Austin RP, “Constructive Trusts” in Finn PD (ed), *Essays in Equity* (Law Book Co, 1985).
 5. Austin, n 4, p 56.
- 5 **Journals should be cited as follows:**
Odgers S, “Police Interrogation: A Decade of Legal Development” (1990) 14 Crim LJ 220.
Wherever possible use official abbreviations not the full name for journal titles.
 - In footnotes do not use *ibid* or *op cit*. The following style is preferred:
 6. Sheehy EA, Stubbs J and Tolmie J, “Defending Battered Women on Trial: The Battered Woman Syndrome and its Limitations” (1992) 16 Crim LJ 220.
 7. Sheehy et al, n 6 at 221.
- 6 **Internet references should be cited as follows:**
Ricketson S, *The Law of Intellectual Property: Copyright, Designs and Confidential Information* (Lawbook Co., subscription service) at [16.340], <http://subscriber.lawbookco.com.au> viewed 25 June 2002. Underline the URL and include the date the document was viewed.

For further information visit <http://www.thomson.com.au/legal/> or contact the Production Editor.

SUBSCRIPTION INFORMATION

The *Criminal Law Journal* comprises six parts a year.

Customer service and sales inquiries:
Tel: 1300 304 195 Fax: 1300 304 196
Web: www.thomson.com.au/legal/p_index.asp
Email: LRA.Service@thomson.com

Editorial inquiries:
Tel: (02) 8587 7000

HEAD OFFICE
100 Harris Street PYRMONT NSW 2009
Tel: (02) 8587 7000 Fax: (02) 8587 7100



ISSN 0314-1160

Typeset by Lawbook Co., Pyrmont, NSW

Printed by Ligare Pty Ltd, Riverwood, NSW