

---

# Australian Law Journal

GENERAL EDITOR  
Justice François Kunc

THOMSON REUTERS EDITOR  
Cheryle King

ASSISTANT GENERAL EDITORS

Nuncio D'Angelo <i>Solicitor, Sydney</i>	Angelina Gomez <i>Lawyer, Perth</i>	Ruth Higgins SC <i>Barrister, Sydney</i>	Clare Langford <i>Solicitor, Sydney</i>
---	--	---	--

The mode of citation of this volume is  
**(2017) 91 ALJ [page]**

The views expressed in editorial comment, articles or notes are those of the author or contributor, and are not to be taken as being the views of, or endorsed by, the journal editors unless otherwise indicated.

*The Australian Law Journal* is a refereed journal.

## Australian Law Journal Reports

PRODUCTION EDITOR  
Carolyn May

CASE REPORTERS  
John Carroll  
Alan Luchetti  
Paul McCormack  
Colleen Tognetti  
Stefan Skopelja  
Clare Tuckerman

The mode of citation of this volume is:  
**91 ALJR [page]**

---

# THE AUSTRALIAN LAW JOURNAL

Volume 91, Number 11

November 2017

## CURRENT ISSUES – Editor: Justice François Kunc

Review of the Family Law System .....	871
Two Commonwealth Appointments .....	871
Acting Judges .....	872
The Criminal Justice Report of the Royal Commission into Institutional Responses to Child Sexual Abuse .....	872
Solicitors' Statistics 2016 .....	874
50 Years of the NSW Law Reform Commission .....	874
More Murphy Papers .....	875

## CONVEYANCING AND PROPERTY – Editors: Robert Angyal SC and Brendan Edgeworth

Purchasers' Obligations to Withhold and Remit to the ATO Part of the Purchase Price .....	876
---	-----

## STATUTORY INTERPRETATION – Editor: The Hon John Basten

Choosing Principles of Interpretation .....	881
---	-----

## RECENT CASES – Editor: Ruth C A Higgins SC

United Kingdom: Judicial Review – European Union – Treaty on the Functioning of the European Union, Arts 34, 36, 39 – Proportionality – Alcohol (Minimum Pricing) (Scotland) Act 2012 – Validity .....	886
Constitutional Law: Implied Freedom of Political Communication – Workplaces (Protection from Protesters) Act 2014 (Tas) – Validity .....	888
Constitutional Law: Validity of Ombudsman Act 1974 (NSW), ss 35, 35A and Police Act 1990 (NSW), s 165 – Whether Provisions Limit or Intrude upon the Constitutionally Protected Jurisdiction of the Supreme Court .....	890
Competition: Pecuniary Penalties – Principles Governing the Imposition of Pecuniary Penalties under Competition and Consumer Act 2010 (Cth), s 76 – Whether a Single Joint and Several Penalty can be Imposed on More than One Contravener .....	892

---

## ARTICLES

### WHY LAWYERS NEED A BROAD SOCIAL EDUCATION

#### **Martha C Nussbaum**

Lawyers need a wide education and attempts to reduce legal studies to intense, two year degrees should be resisted. This article was delivered as Professor Nussbaum's keynote address to the Australian Law Journal and Australian Academy of Law Conference, The Future of Australian Legal Education, held in Sydney on 11-13 August 2017. .... 894

### REGULATING ADMISSIONS: ARE WE THERE YET?

#### **Sandford D Clark**

Establishing appropriate threshold competencies for entrants to a disrupted legal profession is challenging. Helping various providers in the continuum of legal education to impart those competencies, in complementary ways and to comparable standards, is even more difficult for regulators. While much progress has been made in establishing and applying standards in recent years, we need to develop and apply many new and possibly unpalatable professional education policies if the legal profession is to maintain the privilege of self-regulation in a rapidly changing society. .... 907

### BOOKS RECEIVED – Editor: Angelina Gomez ..... 926

#### **BOOK REVIEWS – Editor: Angelina Gomez**

- A History of Australian Legal Education* by David Barker ..... 927  
*Equitable Compensation and Disgorgement of Profit* by Simone Degeling and Jason N E Varuhas ..... 931  
*Insolvent Trading and Fraudulent Trading in Australia – Regulation and Context* by John Gooley and Mitchell Gooley ..... 933

## Australian Law Journal Reports

### HIGH COURT REPORTS – Staff of Thomson Reuters

#### DECISIONS RECEIVED IN SEPTEMBER/OCTOBER 2017

- Australian Marriage Equality Ltd v Cormann (*Constitutional Law; High Court and Federal Court; Statutes; Time, Weights and Measures*) ([2017] HCA 40) ..... 1035  
Chiro v The Queen (*Criminal Law*) ([2017] HCA 37) ..... 974  
Graham v Minister for Immigration and Border Protection (*Citizenship and Migration; Constitutional Law; High Court and Federal Court*) ([2017] HCA 33) ..... 890  
Hamra v The Queen (*Criminal Law*) ([2017] HCA 38) ..... 1007  
Public Prosecutions (Vic), Director of v Dalgliesh (a Pseudonym) (*Criminal Law*) ([2017] HCA 41) ..... 1063

---

R v Dookheea ( <i>Criminal Law</i> ) ([2017] HCA 36) .....	960
Roberts, Re ( <i>Constitutional Law</i> ) ([2017] HCA 39) .....	1018
SZTAL v Minister for Immigration and Border Protection ( <i>Citizenship and Migration; Statutes</i> ) ([2017] HCA 34) .....	936
SZTGM v Minister for Immigration and Border Protection ( <i>Citizenship and Migration; Statutes</i> ) ([2017] HCA 34) .....	936
Te Puia v Minister for Immigration and Border Protection ( <i>Citizenship and Migration; Constitutional Law; High Court and Federal Court</i> ) ([2017] HCA 33) .....	890
Wilkie v Commonwealth ( <i>Constitutional Law; High Court and Federal Court; Statutes; Time, Weights and Measures</i> ) ([2017] HCA 40) .....	1035