

PUBLIC LAW REVIEW

Volume 31, Number 4

2020

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ARTICLES

The Court Services Victoria Act 2014 (Vic): Disappointed Expectations? – *Donald Speagle*

The *Court Services Victoria Act 2014* (Vic) enshrined a model of independent courts governance in Victoria, following earlier similar reforms in the Commonwealth and South Australia. This article examines the most important policy choices made in the development of the Act, based on semi-structured interviews with senior people involved in the development of the Act or with experience of the Commonwealth or South Australian model. Despite the original vision on the part of many in the Executive, the Act does not create a unified court system. Moreover, contrary to the hopes of many in the judiciary, the Executive retains control over Court Services Victoria’s finances. In both of these respects, the Victorian Act is substantially different from that in South Australia, which was the basic model for the Act. The Act is a significant milestone, but changes are required to fulfil the promise of the idea of self-governance for Victorian courts.

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Military Intervention in Australian Industrial Action – Samuel White

This article explores the viability for the executive power to authorise the use of the Australian Defence Force (ADF) domestically, through the lens of military intervention in industrial action. It has become practice, when discussing the executive power, to delineate between breadth and depth – the latter of which is somewhat controversial. The article first looks at possible courses of action that can be taken under the *Defence Act 1903* (Cth), before highlighting the apparent gap where the ADF is placed in domestic situations that might require coercion or force, but the situation does not meet the “domestic violence” threshold required under Pt IIIAAA. It then discusses the non-statutory executive power – namely, the internal security prerogative and the implied nationhood power. The article concludes by advocating for statutory empowerment and protection for ADF members. 423

The Principle of Legality and s 32(1) of the Victorian Charter: Is the Latter a Codification of the Former? – Bruce Chen

This article examines two mechanisms of statutory interpretation – the common law principle of legality and s 32(1) of the *Charter of Human Rights and Responsibilities Act 2006* (Vic). Both mechanisms are protective of certain rights and freedoms at common law and domestic human rights law. Subsequent to the High Court of Australia case of *Momcilovic v The Queen*, s 32(1) has predominantly been interpreted as a codification of the principle of legality, but with a “wider field of application”. This article interrogates the utility and accuracy of that characterisation. Understanding the similarities, differences and likely interrelationships between the two interpretive mechanisms is integral to the development and protection of rights and freedoms in Victoria. 444

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