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ARTICLES

Anticipating and Weathering Challenges to Modern Treaties in Australia – *Harry Hobbs*

Modern treaties between Indigenous communities and the State are promises by diverse political communities to reconcile competing claims though dialogue and mutual agreement. In this sense, they are constitutional in character. Giving legal effect to these promises, however, requires legislation, which allows one party to unilaterally revise or revoke the settlement. This is the treaty paradox. Although it is not possible to resolve the paradox, it focuses attention on efforts to ensure the durability of modern treaties. As negotiations commence in Victoria, this article examines the first decade of treaty-making in British Columbia, Canada, which was marked by significant political and legal contestation. Drawing on this case study it identifies two lessons for modern treaty-making in Australia. Ultimately, anticipating and weathering these challenges is key to the success of Australian treaty processes. 318

The Constitutionality of Curial Denationalisation: Court-Ordered Punitive and Non-Punitive Citizenship Deprivation after Alexander and Benbrika – *Adam Lukacs*

The conferral of punitive citizenship deprivation powers on State organs is a relatively recent development in Australia's constitutional history. The High Court's decisions in *Alexander v Minister for Home Affairs* and *Benbrika v Minister for Home Affairs* established that this power is a punishment when imposed in retribution for proscribed conduct and is therefore an exclusively judicial function. In December 2023, amendments to the *Australian Citizenship Act 2007* (Cth) were introduced, allowing courts to order citizenship deprivation as part of a sentence for prescribed terrorism offences. This article explores whether the statutory criteria for citizenship deprivation under this regime amounts to a conferral of non-judicial power on sentencing courts. It argues that the function is likely judicial. The article also explores two other denationalisation models. One is a non-punitive, risk-based model, which this article concludes may narrowly withstand constitutional challenge but its practical utility would be limited; the other is a model based on traditional sentencing principles. 344

A Professional Campaign: World War II, Refugee Doctors in South Australia and the Law – *Dr Gabrielle Wolf*

In the 1930s and 1940s, doctors who escaped from Nazi-occupied Europe and obtained refuge in Australia sought to continue their medical careers. Nevertheless, representatives of the Australian medical profession ardently attempted to prevent them from doing so. This article examines the campaign waged against the so-called "refugee doctors" in the State of South Australia during this period. It explores how the law was used to exclude medical émigrés from the practising medical profession, but also some of those doctors' defiance of the campaign. The article considers lessons we can learn from the past for framing laws and policies regarding refugee doctors' medical practice in Australia today. It is timely to reflect on this historical episode, as the National Cabinet has recently committed to improving the capacity for internationally-qualified health practitioners to contribute to Australian health services. 372

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