JOURNAL OF JUDICIAL ADMINISTRATION

Volume 24, Number 4

June 2015

ARTICLES

Equal justice and cultural diversity: The general meets the particular – *The Hon Chief Justice Robert French AC*

This article concerns the ideas of equality before the law and equal justice and their intersection with cultural diversity including the difficulties of accommodating cultural diversity in the substantive law and the importance of responding to it in the administration of the justice system. 199

Working with interpreters: Judicial perspectives – *The Hon Justice Melissa Perry* and *Kristen Zornada*

This article considers the fundamental role played by interpreters in the judicial system and administrative decision-making arena. Against the background of the current system for interpreters in Australia, consideration is given to how a court assesses whether a person needs an interpreter, and in the context of administrative decisions, the standard of interpretation required at law, and the legal and broader implications of failing to meet that standard. 207

Judicial Council on Cultural Diversity – *The Hon Chief Justice Wayne Martin AC*

This article addresses the ways in which we might improve access to justice for all members of a society, which the author, the inaugural Chair of the Judicial Council of Cultural Diversity, believes has become much better at recognising and celebrating cultural diversity. 214

Judging in a multicultural society – *The Hon Justice Emilios Kyrou*

In a liberal democracy, the rule of law involves fundamental tenets such as equal access to the courts and a fair trial whose outcome depends on an assessment of the evidence that is impartial and free of prejudgment. Fulfilment of these tenets is challenging in a multicultural society where parts of the population do not speak English and do not adhere to uniform cultural beliefs and practices. Australia faces these challenges because it is both a liberal democracy and a multicultural society. To meet these challenges, Australian judges need to be adequately equipped to recognise and manage the cultural diversity of the people who appear in their courts. 223

Embracing technology: The way forward for the courts – *The Hon Chief Justice Marilyn Warren AC*

Imagine a court hearing that is entirely virtual: a judge presiding via Skype from the comfort of his or her chambers; barristers presenting arguments from theirs; witnesses giving evidence from their offices, anywhere in the world; and jurors watching it all play out from another venue. Imagine the judge and jurors being taken by the prosecution on a virtual tour of a crime scene, as if they were actually there, standing in the accused's shoes. Imagine a court system where nobody need attend court at all. Where all documents are filed, served and viewed online at anytime, from anywhere – a paperless, people-less

court. Imagine an app that could predict your chances of success in litigation, or perhaps even adjudicate your dispute. Ten or 20 years ago it would have perhaps seemed ridiculous. The reality is that much of the technology necessary to achieve it already exists. The question for the judiciary is: how can we best embrace it? And importantly, how can we embrace it in a way that aligns with our democratic role in modern society, which ensures efficient and affordable access and observes the principles of natural and open justice? This article focuses on what we might look forward to in the future. It engages in a little speculation and postulates some ideas about the future of technology and social media in our courtrooms and how it might be embraced. 227

Constitutional right of access to courts in Australia: The case of prisoners – *Anthony Gray*

This article considers a little-known provision of Australian statute law which conditions the right of particular individuals to access courts on the permission of a public official. This provision raises fundamental questions, including the extent to which the Australian Constitution protects the right of an individual to access Australian courts to obtain redress for claimed wrongs. Several arguments are made. First, rule of law concerns with limits to the ability of individuals to practically access courts are considered. A related, but separate, argument might be made from the High Court's past acceptance of notions of "equal justice". It considers the development of an implied right to access courts, sourced in Ch III of the Constitution. It considers whether a right to access courts might be considered part of the existing implied freedom of political communication, since many claims affected by this approval requirement would concern aspects of performance of public functions. Finally, it considers whether conditioning the hearing of a legal action on the permission of a public official might offend the "institutional integrity" of a Ch III court. 236

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