

# Roach V Electoral Commissioner

## Patrick Keyzer

Indigenous Legal Judgments Nicole Watson, Heather Douglas, 2021-06-27 This book is a collection of key legal decisions affecting Indigenous Australians, which have been re-imagined so as to be inclusive of Indigenous people's stories, historical experience, perspectives and worldviews. In this groundbreaking work, Indigenous and non-Indigenous scholars have collaborated to rewrite 16 key decisions. Spanning from 1889 to 2017, the judgments reflect the trajectory of Indigenous people's engagements with Australian law. The collection includes decisions that laid the foundation for the wrongful application of terra nullius and the long disavowal of native title. Contributors have also challenged narrow judicial interpretations of native title, which have denied recognition to Indigenous people who suffered the prolonged impacts of dispossession. Exciting new voices have reclaimed Australian law to deliver justice to the Stolen Generations and to families who have experienced institutional and police racism. Contributors have shown how judicial officers can use their power to challenge systemic racism and tell the stories of Indigenous people who have been dehumanised by the criminal justice system. The new judgments are characterised by intersectional perspectives which draw on postcolonial, critical race and whiteness theories. Several scholars have chosen to operate within the parameters of legal doctrine. Some have imagined new truth-telling forums, highlighting the strength and creative resistance of Indigenous people to oppression and exclusion. Others have rejected the possibility that the legal system, which has been integral to settler-colonialism, can ever deliver meaningful justice to Indigenous people. The Open Access version of this book, available at <http://www.taylorfrancis.com>, has been made available under a Creative Commons Attribution-Non Commercial-No Derivatives (CC-BY-NC-ND) 4.0 license.

An Inquiry into the Existence of Global Values Dennis Davis, Alan Richter, Cheryl Saunders, 2015-08-27 The world appears to be globalising economically, technologically and even, to a halting extent, politically. This process of globalisation raises the possibility of an international legal framework, a possibility which has gained pressing relevance in the wake of the recent global economic crisis. But for any international legal framework to exist, normative agreement between countries, with very different political, economic, cultural and legal traditions, becomes necessary. This work explores the possibility of such a normative agreement through the prism of national constitutional norms. Since 1945, more than a hundred countries have adopted constitutional texts which incorporate, at least in part, a Bill of Rights. These texts reveal significant similarities; the Canadian Charter of Rights and Freedoms, for instance, had a marked influence on the drafting of the Bill of

Rights for South Africa, New Zealand and Hong Kong as well as the Basic Law of Israel. Similarly, the drafts of Eastern European constitutions reflect significant borrowing from older texts. The essays in this book examine the depth of these similarities; in particular the extent to which textual borrowings point to the development of foundational values in these different national legal systems and the extent of the similarities or differences between these values and the priorities accorded to them. From these national studies the work analyses the rise of constitutionalism since the Second World War, and charts the possibility of a consensus on values which might plausibly underpin an effective and legitimate international legal order.

*Comparative Human Rights Law* Sandra Fredman, 2018-11-08 Courts in different jurisdictions face similar human rights questions. Does the death penalty breach human rights? Does freedom of speech include racist speech? Is there a right to health? This book uses the prism of comparative law to examine the fascinating ways in which these difficult questions are decided. On the one hand, the shared language of human rights suggests that there should be similar solutions to comparable problems. On the other hand, there are important differences. Constitutional texts are worded differently; courts have differing relationships with the legislature; and there are divergences in socio-economic development, politics, and history. Nevertheless, there is a growing transnational conversation between courts, with cases in one jurisdiction being cited in others. Part I sets out the cross-cutting themes which shape the ways judges respond to challenging human rights issues. It examines when it is legitimate to refer to foreign materials; how universality and cultural relativity are balanced in human rights law; the appropriate role of courts in adjudicating human rights in a democracy; and the principles judges use to interpret human rights texts. The book is unusual in transcending the distinction between socio-economic rights and civil and political rights. Part II applies these cross-cutting themes to comparing human rights law in the US, UK, South Africa, Canada, and India. Its focus is on seven particularly challenging issues: the death penalty, abortion, housing, health, speech, education and religion, with the aim of inspiring further comparative examination of other pressing human rights issues.

The Legal Protection of Rights in Australia Matthew Groves, Janina Boughey, Dan Meagher, 2019-11-14 How do you protect rights without a Bill of Rights? Australia does not have a national bill or charter of rights and looks further away than ever from adopting one. But it does have a range of individual elements sourced from common law, statute and the Constitution which, though unsystematic, do provide Australians with some meaningful rights protection. This book outlines and explains the unique human rights journey of Australia. It moves beyond the criticisms long made of the Australian position – that its 'formalism', 'legalism' and 'exceptionalism' compromise its capacity for rights protection – to consider how the many elements of its novel legal structure operate. This book analyses the interlocking legal framework for the protection of rights in Australia. A key theme of the book is that the many different elements of a fragmented scheme can add up to something significant, albeit with significant gaps and flaws like any other legal rights protection framework. It shows how

the jumbled influences of a common law heritage, a written constitution, differing paths taken by jurisdictions within a single federal state, statutory and common law innovations and a strong dose of comparative legal influences have led to the unique patchwork of rights protection in Australia. It will provide valuable reading for all those researching in human rights, constitutional and comparative law.

The Oxford Handbook of the Australian Constitution Cheryl Saunders, Adrienne Stone, 2018 Providing an interdisciplinary overview of Australian constitutional law and practice, this Handbook situates the development of the constitutional system in its proper context. It also examines recurrent themes and tensions in Australian constitutional law, and points the way for future developments.

**Responsible Government and the Australian Constitution** Benjamin B Saunders, 2023-06-15 This book looks at responsible government under the Australian Constitution. It undertakes a detailed examination of the history leading to the incorporation of responsible government into the Constitution, examining the political history and constitutional ideas which informed the framers' views. It draws on this history to develop a theory of responsible government and explore its implications for the interpretation of the Constitution and the structure of modern government in Australia. The book fills a major gap in our knowledge of the intellectual background of the Australian Constitution by explaining the constitutional ideas that have shaped the text and structure of the Australian Constitution. It contributes to worldwide debates about constitutional interpretation by showing how rigorous use of history can lead to novel interpretations of constitutions without being tied to the 'dead hands of the founders'.

The Supreme Court of Ghana Law Reports, 2010

**Blackshield and Williams Australian Constitutional Law and Theory** Anthony Blackshield, George Williams, 2010 The fifth edition of Australian Constitutional Law and Theory: Commentary and Materials has been thoroughly rewritten. Each chapter has been thoroughly reviewed by both authors, with fresh choices made for extracts to bring the book up to date for new materials and scholarship. The commentary has also been rewritten to provide clearer explanation of concepts and case outcomes. Major new developments have been included by cutting back existing material to focus more tightly on the key constitutional issues. Also available is the new Abridged edition, [click here for details](#). Major cases added since the last edition include: *Attorney-General (Cth) v Alinta Ltd*; *Bennett v Commonwealth*; *Betfair Pty Ltd v Western Australia*; *Clarke v Commissioner of Taxation*; *Forge v Australian Securities and Investments Commission*; *Gypsy Jokers Motorcycle Club Inc v Commissioner of Police*; *K-Generation Pty Ltd v Liquor Licensing Court*; *Lane v Morrison*; *Pape v Commissioner of Taxation*; *R (Bancoult) v Secretary of State for Foreign and Commonwealth Affairs (No 2)*; *Roach v Electoral Commissioner*; *Sweedman v Transport Accident Commission*; *Telstra Corporation Ltd v Commonwealth*; *Thomas v Mowbray*; *White v Director of Military Prosecutions*; the Work Choices Case; *Wurridjal v Commonwealth* and *XYZ v Commonwealth*. As this list indicates,

the fifth edition includes the groundbreaking 2009 decision in *Pape*, as well as the other key decisions of this year such as *Clarke*, *K-Generation*, *Lane* and *Wurridjal*. Significant changes in this new edition include: A rewritten first chapter to provide a more accessible introduction to the subject; A rewritten and restructured chapter on characterisation to make this difficult area more accessible and to produce a more logical flow of concepts and material; The separation out of the material on the trade and commerce power into a new chapter on the economic powers; Major changes in the chapter on Indigenous peoples, such as to reflect the United Nations Declaration on the Rights of Indigenous Peoples and the Apology to Australia's Indigenous Peoples; Changes to reflect legislative amendment in areas like citizenship law; Rewritten material on federalism, especially in regard to fiscal federalism due to the Intergovernmental Agreement on Federal Financial Relations in force from 1 January 2009; New material on the defence power as it relates to terrorism and national security; New material on the executive, such as in regard to the Crown and the nationhood power; The division of the material on the separation of judicial power into three chapters (titled: Separation of Judicial Power; Judicial and Non-Judicial Detention and The Judicial Process); Revision of the material on human rights, such as to reflect the national charter of rights debate and the enactment of the Victorian Charter of Human Rights and Responsibilities.

*The Constitutional Jurisprudence and Judicial Method of the High Court of Australia* Rachael Gray, 2008 This book reviews the movements that have occurred in the High Court's approach to constitutional issues during the Dixon, Mason and Gleeson eras using the legal theory perspectives of legalism, realism and pragmatism. To date, the relevance of theoretical reasoning to Australian constitutional jurisprudence has received relatively little attention. Analysis of constitutional decisions has tended to focus on outcomes rather than method. The book provides a contemporary, comparative and analytical perspective on the manner in which theoretical perspectives can be used to understand and explain the movement of the High Court's constitutional jurisprudence. The discussion is timely in view of the retirement of Chief Justice Gleeson in August 2008 which is likely to focus attention on the Gleeson Court's approach to constitutional issues and the Court's contribution to Australian law.

**Monash University Law Review** Monash University. Faculty of Law, 2007

*Open Constitutional Courts* Patrick Keyzer, 2010 Sometimes a group is rich enough and philanthropic enough to fund a constitutional challenge to a piece of legislation. *GetUp's* victory in the High Court of Australia in August 2010 is an example - and as a result nearly 60,000 Australians were enfranchised to vote in the general election later that month. Often, however, a challenger doesn't have a wealthy backer and takes a huge risk in mounting the action. Would the Commonwealth cede standing? Would it waive its costs if the challenger lost? Patrick Keyzer's book is a powerful argument the constitutional justice requires the removal of this political, lottery element from a legitimate constitutional challenge. The private law paradigm of litigation, he says, is inappropriate in constitutional cases. Keyzer argues that an application for the judicial

review of legislative action should be characterised as an exercise of political free speech, and that the rules governing standing and costs are incompatible with that freedom and should be abolished in constitutional cases. He demonstrates that the constitutional guarantee of judicial review gives rise to a right to know whether a law is constitutionally valid, providing a further rationale for open access. Such open access would supply our constitutional courts with a wider normative horizon, and lend legitimacy to judicial review and its outcomes.

*The Commonwealth Law Reports* Australia. High Court, 2008

Legislatures in Federal Systems and Multi-level-governance International Association of Centers for Federal Studies.

Conference, 2010 The contributions in this book analyze the role of parliamentary assemblies in various federal systems. They deal with national parliaments, Second Chambers, regional parliaments, and the special role and functions of parliaments in Multi-Level Governance such as the EU.

**Australian Legal System** Michael K. Meek, 2008 Nutshells are ideal as an introduction to an area of law or as a brush up in preparation for exams. Concise; Clear explanations; Key cases; Legislative provisions.

**UCLA Pacific Basin Law Journal**, 2007

*Limiting Prisoner Disenfranchisement* Renee Gastaldon, 2008

*University of Tasmania Law Review*, 2009

The Parliamentary Debates (Hansard). Great Britain. Parliament. House of Lords, 2008

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