

CURRENT LEGAL ISSUES

2017 SEMINAR SERIES



THE UNIVERSITY
OF QUEENSLAND
AUSTRALIA

TC Beirne School of Law



BAR ASSOCIATION
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SUPREME COURT
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2017 Seminar Series

The Bar Association of Queensland, The University of Queensland, Queensland University of Technology and the Supreme Court Library Queensland are pleased to announce the Current Legal Issues Seminar Series for 2017.

The seminar series seeks to bring together leading scholars, practitioners and members of the judiciary in Queensland and from abroad to discuss the issues of contemporary significance.

| Date | Presenters | Chair | Commentator |
|---|---|--|--|
| Seminar 1: "Can there ever be affordable Family Law?" | | | |
| 9 May | Professor Patrick Parkinson AM, <i>University of Sydney</i> | Tom Kirk QC | The Hon. Stephen O'Ryan QC |
| Seminar 2: "Causation and Loss of Opportunity" | | | |
| 27 July | The Hon. Justice David Jackson, <i>Supreme Court of Queensland</i> | The Hon. Justice James Edelman, <i>High Court of Australia</i> | Professor Kit Barker, <i>University of Queensland</i> |
| Seminar 3: "Statute Law and Common Law" | | | |
| 17 August | Adam Pomerence QC | The Hon. Justice Peter Applegarth, <i>Supreme Court of Queensland</i> | Dr Stephen Donaghue QC, <i>Solicitor-General of the Commonwealth of Australia</i> |
| Seminar 4: "Criminal Omissions Liability" | | | |
| 2 November | Andrew Ashworth CBE, QC, DCL, Emeritus Vinerian Professor of English Law, <i>University of Oxford</i> | Professor Simon Bronitt, <i>University of Queensland</i> | Professor Jeremy Gans, <i>University of Melbourne</i> |



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9 May - Seminar 1: "Can there ever be affordable Family Law?"

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| Presenter | Professor Patrick Parkinson AM, <i>University of Sydney</i> |
| Abstract | <p>Despite numerous reforms to the Family Law Act 1975 over many years, the current operation of the family law system continues to be a source of great dissatisfaction to almost everyone caught up in it - including many judges. For legally represented people, it is hugely expensive – far more than most people can reasonably afford. Part of the cost is due to the very long delays (sometimes two to three years) before getting to trial and the number of court events required before reaching that point.</p> <p>The standard response to these problems is to call for more resources - especially more judges. This will help – of course; but there are many reforms that could be made within the existing budgetary envelope to ensure that the system works much better for ordinary Australians. These reforms include obligations on practitioners and judges similar to those contained in the Civil Procedure Act 2005 (NSW) to facilitate the just, quick and cheap resolution of the real issues in the proceedings; the greater use of costs orders against people who pursue unreasonable or unnecessary applications or responses to applications; greater enforcement of the duty to try to sort out matters without filing legal proceedings, listing priority to be given to parties who can demonstrate that they have taken all reasonable steps to try to resolve their dispute; the expansion of arbitration, and the use of default rules to remove certain categories of case from the courts entirely.</p> <p>This paper is intended to stimulate a dialogue between the courts, the legal profession and the government about what can be done to make family law more affordable – both for litigants and taxpayers - and more effective to assist ordinary Australians at an extraordinarily difficult time in their lives.</p> |

27 July - Seminar 2: "Causation and Loss of Opportunity"

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| Presenter | The Hon. Justice David Jackson, <i>Supreme Court of Queensland</i> |
| Abstract | <p>Causation is a necessary element in a damages claim. The typical causal question at common law is whether the claimant's loss was caused by the defendant's wrong? However, relatively recently courts have focussed closer attention on what will answer the causal question yes or no. Correspondingly, recently courts have allowed or denied recovery of damages for loss of an opportunity to obtain a better financial or physical outcome as damage caused by the defendant's wrong.</p> <p>Around the common law world, some surprising differences have marked these developments. In Australia, damages are recoverable for loss of a valuable commercial opportunity to receive a benefit but not for loss of an opportunity for a better medical outcome. In the United States, it is the other way around. England and Wales have a different legal structure as well.</p> <p>This lecture will attempt to trace the differing developments, the reasons for them and to offer some tentative suggestions as to where the law might further develop.</p> |



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17 August - Seminar 3: "Statute Law and Common Law"

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| Presenter | Adam Pomerence QC |
| Abstract | The Constitution, the statute law of the Commonwealth, States and Territories, and the common law of Australia have been said together to form 'one system of jurisprudence'. The 'symbiotic' relationship between the common law and statute law has been the subject of increasing attention in Australia in recent years. That attention is warranted given the exponential growth in the volume and scope of statute law throughout Australia. The issues that arise extend beyond statutory interpretation and direct statutory modification of the common law. They include the implications of giving common law concepts statutory force and remedies, and the capacity of statute law to influence the content and development of the common law in areas beyond the direct operation of the statute. Coherence across Australia's 'one system of jurisprudence' has emerged as an important consideration, although it is yet to be fully developed. |

2 November - Seminar 4: "Criminal Omissions Liability"

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| Presenter | Andrew Ashworth CBE, QC, DCL, Emeritus Vinerian Professor of English Law, <i>University of Oxford</i> |
| Abstract | Is there anything wrong with holding a person criminally liable for another's act or failure to act? In what types of situation does contemporary criminal law go beyond the principle that a person should only be penalised for conduct or consequences that he or she was at fault for bringing about? Is that a principle that should generally be respected, or does the current emphasis on security and prevention justify a more 'pragmatic' criminal law? The lecture will explore these fundamental questions in the context of omissions offences, preventive offences, corporate criminal liability and other developments. |



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Aims:

The series seeks to bring together leading scholars, practitioners and members of the Judiciary in Queensland and from abroad, with a view to:

- providing a forum for the critical analysis and discussion of current legal issues
- bringing to bear upon those issues the different perspectives offered by leading members of the academy, the profession and the judiciary
- forging stronger links between academic and practising lawyers in Queensland

Time:

Registration: 4.45pm - 5.00pm.

Seminar: 5.00pm - 6.30pm, followed by refreshments.

Format:

Each seminar will comprise a chair, speaker or co-speaker, and commentator. The chair will introduce the speakers and commentator. A paper will then be presented by a leading practising or academic lawyer. The lecture will be available in advance on www.law.uq.edu.au/current-legalissues-series, a website hosted by the University of Queensland.

Venue:

The Banco Court, Supreme Court of Queensland, Queen Elizabeth II Courts of Law Complex, 415 George Street, Brisbane.

Seminars will be followed by a drinks reception in the foyer.

CPD:

The series is accredited for CPD purposes by the Queensland Bar Association, 1.5 CPD points each seminar in the Substantive Law strand.

Participants:

The series in 2017 is a collaboration between the University of Queensland, the Bar Association of Queensland, Queensland University of Technology and the Supreme Court Library Queensland.

Registration:

To register online for the seminar, please go to CPD/Events at www.qldbar.asn.au.

For further information please contact the CPD team.

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