Introduction

This issue of *Canberra Law Review* marks the 25th Anniversary of Canberra Law School, situated within the Faculty of Business, Government & Law at the University of Canberra.

The articles in this issue look forward and backward, engaging with social, political, cultural and economic issues that have faced Australia in the past and will be salient in future as the nation – and legal practitioners, students and academics – grapple with questions about cybersecurity, the long shadow of colonialism, identity and how non-specialists understand the law. The latter aspect is especially relevant for law teaching amid controversy about democratic deficit and disengagement from mainstream politics or legal mechanisms in favour of poujadist fringe parties and assertions of sovereign citizenship, and perceptions that legal study is a matter of maximising revenue rather than justice.

As an Anniversary issue the Editors have taken an inclusive approach, featuring work by academics, an adjunct and – for the first time – current students at Canberra Law School. That inclusiveness means the *Review* features work that is longer and shorter than usual, with a mordant 'Op Ed' by information technology analyst Drew Gough and an exhaustive piece by Matthew Rimmer.

The issue kicks off with the speech by Linda Crebbin AM at the 25th Anniversary event on 12 September, which brought together current/past law students and academics with stakeholders from government, business and civil society. Ms Crebbin's characteristically incisive, entertaining and humane view of law past and future reflects her contribution to the School and justice over many years. That is especially notable because excellent people are always in demand and 'giving' to the community comes at a personal cost.

Matthew Rimmer's 'Australia's Stop Online Piracy Act: Copyright Law, Site-Blocking, and Search Filters in an Age Of Internet Censorship' offers an incisive critique of law around a recurrent controversy: access to online content. The article argues that Australia's copyright regime for site-blocking and search-filtering poses a threat to consumer rights, competition policy, and Internet Freedom. Professor Rimmer first reviews the model of the *Copyright Amendment (Online Infringement) Act 2015* (Cth) introduced by the then Minister for Communications & the Arts the Hon. Malcolm Turnbull. Secondly, the article explores the flurry of cases brought by the film, television, and music industries in respect of the legislative regime. Thirdly, the article evaluates the expansion of the regime with the *Copyright Amendment (Online Infringement) Act 2018* (Cth). In light of such developments, Rimmer calls for a new approach for Internet regulation by the Australian Parliament. His conclusion highlights the need for a bill of rights in

Australia for a digital age: a Magna Carta to protect an open and accessible Internet.

Dr Bede Harris inspired a generation of graduate and undergraduate students at Canberra Law School, many of whom still use 'what would Bede say' as part of their mental map. His 'The Case for Codifying the Powers of the Office Of Governor-General' suggests that debate on the question of whether Australia should become a republic has masked a far more important underlying issue, namely whether the conventions of the office of Governor-General should be codified. The issues are linked in that opinion polls have consistently shown that if Australia was to become a republic, voters would prefer a model which included direct election of a President, yet the risk that an elected President might breach the conventions of the office has proved to be an obstacle to its adoption. Codification of the powers of the office would address this problem. It would also provide an opportunity to clarify areas of uncertainty that became evident during the constitutional crisis of 1975 and to bring the text of the Constitution into alignment with how responsible government actually operates. Codification would therefore be beneficial irrespective of whether Australia became a republic. The constitutions of many other countries – both those that have retained the link to the Crown and those that have become republics – provide examples of how this might be done. The article ends with a model codification of the conventions.

'On a screen darkly: Outback Noir, Erasure and Toxic Masculinity' takes a walk on the wild side of law and culture, with Dr Bruce Arnold taking momentary leave from his research on genomic privacy and regulatory incapacity in the health sector to interrogate depictions of hegemonic manhood in four iconic Australian films: *Wake in Fright*, *The Chant of Jimmie Blacksmith*, *Mad Max* and *Ghosts … of the Civil Dead*. The homosociality depicted in those films fosters sexual assault as an expression of power, an expression embraced by bystanders and authorities. The article's engagement with toxic masculinity complements contemporary debate about #MeToo and questions the understanding of law on screen, alongside an acerbic view of Australia's foundational myth of 'mateship'.

Drew Gough's Op Ed 'When it comes to cybersecurity, lawyers don't need to embrace Dr Strangelove' explores questions about the Internet of Things, regulation, user/manufacturer responsibility and the notion that 'Cybersecurity Is Not Very Impoprtant'. His piece serves as a starting point for the Canberra Law School's 2020 symposium on artificial intelligence and law.

The 'Recountbacks' article by Tom Round considers the High Court's approach to disqualification of MPs under s 44 of the Australian Constitution. The article engages with questions of principle and practice in discussing whether a 'recountback' can be allowed to unseat an already-elected not-disqualified Senator.

In a departure from usual practice this issue of the Review inaugurates a discrete Student section, featuring notes and articles by later-year undergrad and graduate Law students at Canberra Law School. Inclusion recognises their work in the Honours and other research units.

Clarissa Shortland's 'Moutia Elzahed v Commonwealth and NSW' considers jurispridence and protocols regarding testimony and veiling in the context of human rights and the Australian anti-terrorism regime.

'Imminence And States' Right To Anticipatory Self-Defence: Responding To Contemporary Security Threats And Divergence In Legal Diplomacy' by Renee Mastrolembo explores core themes surrounding states' inherent right to anticipatory self-defence and the notion of imminent threats in an attempt to identify deficiencies in the current international law position. Mastrolembo argues that changing nature of security threats and divergent diplomacy of states regarding anticipatory self-defence warrants a re-examination of the international law position. The article proposes a refined position and considers how it could be implemented.

'Does the Common Law and Equity Provide an Adequate Framework for Digital Assets in Australia?' by Joshua Mills explores digital assets through a common law approach, in particular juxtaposition of Blackstonian and Hohfeldian concepts of property. It suggests new legal avenues for digital asset owners through application of traditional legal principles, causes of action and remedies regarding personal property, for example a tort of privacy and information fiduciaries.

Bruce Baer Arnold
Co-Editor

Rob MacLean
Co-Editor

***