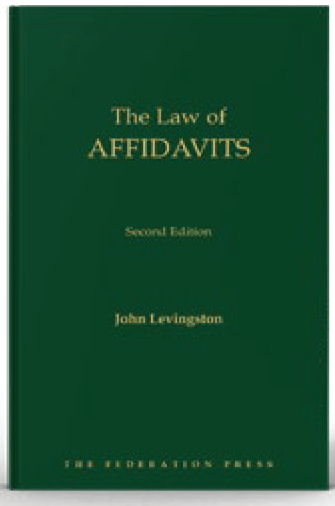
BOOK

The Law of Affidavits

By John Levingston (Federation Press, 2nd ed, 2024)



David Ash
Frederick Jordan Chambers

> *Truth for us is relative. True or untrue is proven or unproven, and proven or unproven is ultimately believed or not believed with the requisite degree of intensity."*
>
> – Chief Justice Stephen Gageler AC[1]

An affidavit has two essential qualities. Firstly, it is evidence that the witness believes to be true, reduced to writing. Secondly, it is nothing else.

This book is not *The Affidavit* but *The Law of Affidavits*. As Murray Gleeson regularly reminded practitioners, the rule of law is not the rule of lawyers. A litigant might produce what they think is an affidavit and a judge is likely to have some sympathy if the litigant's thought is 'different' from the result. But when a lawyer is involved in the production of something 'different', the due administration of justice requires a lack of sympathy. For what has occurred is a shortfall in the practitioner's understanding of their own role.

The author, after a short introduction and a straightforward explanation of what the affidavit is, moves to the crux: 'The success of an affidavit is dependent upon the practitioner's observance of professional obligations, ethics, and professional skill.'

Success in this context is the affidavit's successful contribution to the achievement of the ultimate believability referred to by Chief Justice Gageler. What Mr Levingston is at pains to make clear is that the affidavit is not dependent upon the practitioner but upon the practitioner's observance of criteria. The criteria may be well known, but they must be well understood when coming to the task.

Mr Levingston's work is not ambitious. But a work about affidavits does not have to be. Indeed, it should not be. The purpose of an affidavit is simple, and so too should be the result. The complexity is in the execution of the process, and Mr Levingston's work deals with the complexity by aligning it with the simplicity.

Firstly, an affidavit is about evidence. The evidence is not the evidence of the advocate. Rather, it is for the advocate to approach the entirety of the witness's recollection or understanding with the aim of distilling it for the issue confronting the client. And that distillation, at a level of generality, is simple and unchanging. In the words of the High Court, 'Only if the evidence is relevant do questions about its admissibility arise.'[2]

The point the author makes is that there is danger in an ad hoc approach. A practitioner who merely knows about relevance and admissibility is apt to approach the witness's recollection or understanding as a process of deforestation, to satisfy relevance, followed by a process of revegetation, to achieve admissibility. The practitioner who understands relevance and admissibility is better able to identify both as integral parts of the whole and is better able to appreciate that preparation involves 'a number of structured processes and application of the elements of risk management'.

Secondly, an affidavit is about a witness. It is not about a client's case or about any point of view other than the view of the witness. A 'witness' is a person with 'wit' or knowledge. The reduction to writing of that knowledge is not a reduction to writing of the advocate's knowledge. Mr Levingston explores this proposition through a site of frequent misunderstanding and abuse: the affidavit of the expert.

It is unsurprising that the expert affidavit causes difficulty. The evidence in question is the evidence of expert opinion. Advocates and experts are human and tend to have different views about expertise and about opinions. Mr Levingston's attitude is simple: the wit is the wit of the witness, and any attempt – wittingly or, far more frequently, unwittingly – to make it the wit of the advocate is to render the affidavit 'something different' in the sense already used. It is not an affidavit. It is only evidence of Voltaire's assessment that '[a] witty saying proves nothing'.

Thirdly, an affidavit is about a belief in truth. As noted in the book's foreword, Mr Levingston is a member of the New South Wales Civil and Administrative Tribunal. The exercise of that office, a largely lawyer-free administration of justice, doubtless requires sympathy when dealing with affidavits made without a lawyer's assistance. It doubtless also justifies the author's ability to say that when the forum is not lawyer-free 'a knowledge of the court rules is critical to the admissibility of the evidence, and for avoiding the distraction of an unhappy judge'.

A belief in truth is an integrity that belongs to the witness. An assistant's belief that the making of an affidavit by the witness is a process involving separate inquiries into truth and into belief is a mistaken belief.

The words 'version of evidence' cause disquiet only in isolation. The Bible has versions. The King James Version is one. It may be that, in the course of rendering unto God, different preachers have suffered different punishments for preaching different versions. But the advocate involved in the administration of justice in New South Wales is rendering merely unto Caesar. It is sufficient to discharge 'observance of professional obligations, ethics and professional skill' merely to recall that a version of the evidence must still be evidence and that, in the case of the affidavit, the evidence comprises neither truth nor belief, but belief in truth.

Finally, an affidavit is about a reduction to writing. This has two aspects. The first is an amalgam of the first three elements: reducing to written form the witness's own belief in the truth of the evidence. This is the most confronting element, in that an advocate must decide in the particular situation what they are actually doing.

It is simple enough to say, 'I am to be amanuensis': that the affidavit is to be by my manus, my hand, and that I am slave in the process, indeed a most valued slave.[3]

But the question is, slave to whom? Approached in the ad hoc manner deprecated by Mr Levingston, the answer is likely to be confused. But the result of following Mr Levingston's approach

– an approach where one understands one's obligations and one applies 'the elements of risk management' – is a result that recognises that the advocate, in assisting in the preparation of an affidavit, is by definition a slave to the witness, by obligation a slave to the client, and by purpose a slave to the judge.

An advocate is a free agent who best exercises freedom by informed agency. The fact that there may be three principals has complexity, but once the complexity is put in context, the course of putting words into text is straightforward.

The second aspect of an affidavit's reduction to writing is the importance of form. Mr Levingston deals with form in two interrelated ways. The first is the form required by purpose. Is the purpose to set out the witness's direct experience? Or is the purpose to set out the witness's opinion of things that are not within the witness's direct experience? Is it to state a particular thing, such as a belief that the facts of a party's claim are true or that there exists a debt, or is it to state a wider set of things in a narrative form, and is there a particular form in either case? And so on.

The second way Mr Levingston deals with form is by investigating each forum's rules regarding written documents in general and affidavits in particular. Much of Mr Levingston's work is directed to these rules in each of the Australian forums. The underlying proposition is that form is necessary at two distinct times: in the registry and before the judge.

The first sign of an uninformed practitioner is unfamiliarity with rules of form. Perhaps their experience leads them to conclude that justice is concerned with substance, ergo substance will triumph over form. It can safely be said that Mr Levingston's view on unfamiliarity is that 'risk management' is one thing but 'risk without management' is something else.

This can also be viewed through what I referred to earlier: a focus on providing believability. The dichotomy of form and substance is, I think, a false dichotomy. Is it not preferable to regard recognition of form as an acknowledgement of the dignity of the forum – as a form of respect? Respect does not create truth, and maybe it ought not make something more believable either, but I am not sure whether that is the advocate's decision. Follow the rules.

It is said that a book is written by an author. That is nonsense. An author writes a manuscript. In the typographical age, the manuscript had all manner of workings by all manner of people – an agent, a reader, a subeditor, an editor, a publicist and others – and then, possibly, a book was published as a result. In the age of immediacy, the workings are truncated – and sometimes absent – but it is still nonsense to say that a book is written by an author.

Yet, integrity and no small amount of commonsense do what they do, and a state of belief is reached where we can say the book, despite the existence of the nonsense, is nonetheless the author's book. This requires a belief by the author and by the reader that the published book is identifiably the manuscript and that the role of the interlopers (the agent, reader, subeditor, editor, publicist et al) is a role of contribution to that result and not a role of creating 'something different'.

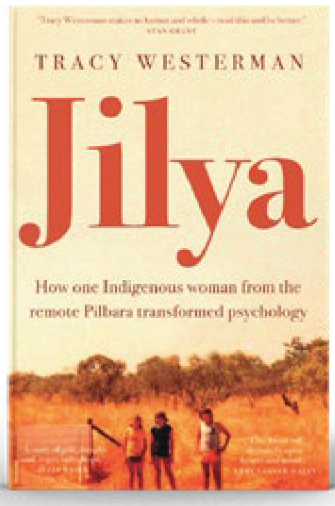
So, too, the affidavit. Mr Levingston's work is an invaluable aid to the interloper who seeks to contribute and not to create. BN

ENDNOTES

1 In 'Truth and justice, and sheep' (2018) 46 *Australian Bar Review* 205.
2 *Smith v R* (2001) 206 CLR 650, 653–4.
3 See, eg, Suetonius, *Nero*, 44.

Jilya: How one Indigenous Woman from the Pilbara Transformed Psychology

By Tracy Westerman (UQP, 2024)



Dominic Villa SC
New Chambers

Despite the subtitle, this book is as much an account of Dr Westerman's crusade to adapt established mental health practices for Indigenous Australians – especially young Indigenous Australians – as it is of her own remarkable journey.

Dr Westerman is a Nyamal woman, who grew up in the remote mining town of Tom Price in the Pilbara region of Western Australia. Her parents did not attend high school but encouraged education. Dr Westerman became the first person from Tom Price to complete their schooling and enter university. She then became the first Aboriginal person to complete a PhD in clinical psychology.

In the introduction, Dr Westerman says of *Jilya*:

> It's a story of significant pain, but also of healing … It is a story of what is possible with drive and determination, and of how hope can be the difference this country so badly needs. … Ultimately, though, it is a story of love for my people.

'Jilya' means 'my child' and the book is dedicated to 'our children … to ensure they all have an equal opportunity to thrive'. It traces Dr Westerman's path from a childhood in the unrelenting heat and dust of the Pilbara to the University of Western Australia, via a brief stint at a Catholic boarding school in Perth before completing high school through distance education. In the course of recounting this journey, there are personal reflections on Aboriginal identity and culture, belonging and connection, heartbreak and trauma, racism and violence.

Interwoven with personal reflections are the professional experiences that have driven Dr Westerman to question the application of established mental health approaches in Indigenous – especially remote Indigenous – communities. At the heart of her approach is the recognition of the importance of culture and the tendency of existing approaches to pathologise spiritual realities:

> How on earth do you unpack the difference between someone experiencing psychosis and someone seeing spirits of deceased loved ones as part of cultural grief? I had to think on my feet because nothing had been published that accepted a spiritual dimension could be anything other than a diagnosable mental illness.

(continued to next page)

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There is plenty of frustration and criticism of governments and fellow practitioners for their lack of support for her culturally tailored approaches to the significant mental health challenges confronting Indigenous communities.

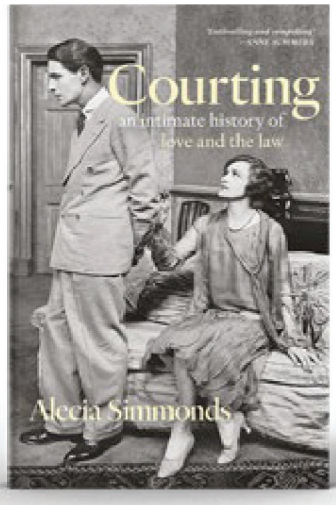
Ultimately, however, there is also plenty of hope and inspiration. In the wake of the 2019 Fogliani coronial inquest into the deaths of 13 young Indigenous people in the Kimberley, Dr Westerman established the Westerman Jilya Institute for Indigenous Mental Health to support improved access to clinically and culturally appropriate mental health services in high-risk communities. Recognising the importance of representation, the Dr Tracy Westerman Indigenous Psychology Scholarship Program supports Indigenous psychology students.

Jilya: How one Indigenous Woman from the Pilbara Transformed Psychology is not always an easy read. Mental health and entrenched racism are difficult topics at the best of times, all the more when they intersect. It is nonetheless an inspiring tale of grit, determination and love. BN

BOOK

Courting: An Intimate History of Love and the Law

By Alecia Simmonds (La Trobe University Press, 2024)



Dominic Villa SC
New Chambers

On a squally autumn day in Sydney in March 1914, Beatrice Storey, a barmaid, sued Frederick Chapman, a farmer, for abandoning her on the day of their wedding.

Thus begins Dr Simmonds' account of actions for breach of promise of marriage. After converting Frederick's 'love letters into legal evidence and his passion into proof', Beatrice was awarded a hefty £350 in compensation for her 'lacerated feelings' by a jury of four in a trial presided over by Justice Sly (who also has the honour of being the first counsel named in the CLRs). Beatrice and Frederick next appear in the historical records of St Martin's Anglican Church in Kensington, when they eventually married.

Dr Simmonds records that a grandson of Beatrice and Frederick was also sued for breach of promise of marriage, in one of the last such actions before its abolition in 1976. This suit was publicly revealed after Liberal firebrand Wilson Tuckey decided to goad the respondent in Federal Parliament. Tuckey, in turn, was described as a 'stupid foul-mouthed grub' and a 'piece of criminal garbage'. The respondent, the grandson of Beatrice and Frederick, was, of course, Paul Keating.[1]

This 'intimate history of love and the law' is not a history of romantic love. As Dr Simmonds notes, 'there are no lofty philosophers, sensitive poets or delicate letter writers penning epistles in the hush of a lady's drawing room'. Instead, 'our feckless Lotharios are shearers, train drivers, bankrupt shopkeepers, farmers and commercial travellers' and 'their scorned brides are … barmaids, domestic servants, seamstresses, nurses, piano teachers … chorus girls and migrants'.

This is not a book about the law, although there is an early chapter describing the essential elements of the action for breach of promise of marriage and its origins in the *causa matrimoniales* of the ecclesiastical courts. Instead, it is a 'history of courtship from the archival remains of broken hearts'. It is also no voyeuristic survey of heartache. Rather, Dr Simmonds presents a vivid account of the trials and tribulations of love (sometimes romantic, often distinctly pragmatic) and situates courtship and its rituals in the social realities of the day.

The first part, 'Love in a Penal Colony', traces the transition of expressions of love in the early days of convict settlement – 'once happily erotic, transient and illicit' – to the 'straightjacket of bourgeois, lawful marriage: monogamous, dutiful, patriarchal and restrained'. The second part, 'Geographies of Desire', explores the spaces, places and movements of courting men and women in the mid-Victorian era. The third part, 'Intimate Encounters', begins with the social upheaval that followed the end of the long economic boom of the Victorian era in the late 1880s, accompanied by the rise of 'the age of the trial' in which scandalous divorce hearings and criminal sex trials brought private life increasingly into the public domain. The final part, 'Modern Love', explores the interwar period in which 'courtship became serial dating'. As is often the case, the law (and its participants) marched on with society, 'though in the rear and limping a little'[2], and Dr Simmonds describes the increasing disentanglement of love and the law during this period as romance became unmoored from its traditional anchor points.

This is a fascinating social history of love lost (and occasionally reclaimed) and the demand for rehabilitation of dignity, reputation, hurt feelings and financial ruin. These stories have been gleaned from press reports of the day as well as a review of the court records of over a thousand cases dating back to the earliest days of the colony. They are stories told through the 'proof of endearment' (or otherwise) of its participants: 'love letters, lost wages, gifts, jewellery, gossiping neighbours, expert witnesses, trousseaux and tales of misplaced trust'. This is a great summer read! BN

ENDNOTES

1 Perhaps fittingly, Beatrice and Frederick met at the Captain Cook Hotel upon which is now emblazoned a portrait of Keating's nemesis, Bob Hawke (or, at least, his lager).

2 As Windeyer J said of legal attitudes towards psychiatric injury in *Mount Isa Mines Ltd v Pusey* (1970) 125 CLR 383,395.

Equity and Trusts

By Michael Evans, Theresa Power and Joseph Power (LexisNexis, 5th ed, 2024)

Bede Haines
University Chambers

The fifth edition of this book provides a systematic statement of equity and trusts. The book originally commenced life in 1988 as Michael Evans' *Outline of Equity and Trusts*. The current title was adopted in 2003, and it has been eight years since the last edition.

While the book presents as a textbook, rather than in a 'commentary and materials' format, the authors adopt the helpful habit of including – in standalone boxes, so as not to distract from the main text – case summaries disclosing key facts and law from leading cases relevant to the principles being considered. These summaries benefit the reading experience and make interesting reading on their own, bearing similarity to – but understandably less detail than – Federation Press' excellent Leading Cases series by Daniel Reynolds and Lyndon Goddard.

The text's subject matter is well covered, starting with equity's history and maxims, followed by sections on equity and property, equitable obligations, equity and contracts, and miscellaneous equitable doctrines. This is followed by several parts on trusts, including a long chapter on charitable trusts, before finishing with equitable defences and remedies.

Comparisons will likely be made to other leading texts, particularly *Meagher, Gummow and Lehane's Equity: Doctrines and Remedies* (LexisNexis, 5th ed, 2015). This is nothing to fear. The books overlap, of course, but serve different needs. While *Equity and Trusts* generally contains less information per subject head than *Equity: Doctrines and Remedies*, its strength is its schematic structure, clear style and relatively short sentences. These features allow the book to flow from point to point, paragraph to paragraph, aided further by clear section headings. This also makes flicking through the text easy; the book's structure should assist with such tasks as preparing pleadings. The book's purpose is to present the topic clearly to its reader. If the reader requires further details, the footnotes reference other places to look, including cases, journal articles and other texts.

Parts of the text have a definite narrative drive; the chapter on penalties is a good example. The text tells the 'story' of this area of law, while also setting out the principles, beginning with *Dunlop Pneumatic Tyre Co Ltd v New Garage and Motor Co Ltd* [1915] AC 79, through *Andrews v Australia and New Zealand Banking Group* (2012) 247 CLR 205 and the equitable doctrine of penalties, and finally to *Paciocco v Australia and New Zealand Banking Group* (2016) 258 CLR 525 and its subsequent application. The reader gains a sense of the development of the law to where it now stands.

To give a further flavour of the book and how its subject matter is approached, chapter 18 (selected randomly) includes a section on proprietary estoppel. The subject is briefly introduced and a distinction drawn between estoppel by acquiescence and estoppel by encouragement – the schematic approach. Specific sections on each then follow naturally.

On the topic of acquiescence, a boxed summary of *Ramsden v Dyson* (1866) LR 1 HL 29 follows some introductory remarks. As it is separate to the main narrative, the reader can freely ignore it or use it to glean a deeper understanding of the principles. After this is commentary on the elements (or *probanda*) for estoppel by acquiescence as formulated by Fry J in *Willmott v Barber* (1880) 15 Ch D 96. Sir Edward Fry's elements are next considered by reference to their application or treatment in recent decisions, in particular *Priestley v Priestley* [2017] NSWCA 155, Macfarlan JA and *E Co v Q* [2018] NSWSC 442 (*'E Co v Q'*), Ward CJ in Eq. A similar approach is adopted for estoppel by encouragement. Some useful case boxes consider examples such as an insightful summary of *E Co v Q*. The section ends with a consideration of the forms of relief for proprietary estoppel, concentrating on *Giumelli v Giumelli* (1999) 196 CLR 101, *Sidhu v Van Dyke* (2014) 251 CLR 505 and the UK Supreme Court decision of *Guest v Guest* [2022] UKSC 27.

As would be expected, recent cases are considered: *Stubbings v Jams 2 Pty Ltd* (2022) 276 CLR 1 on unconscionable conduct, *Bosanac v Commissioner of Taxation* (2022) 275 CLR 37 on resulting trusts, *Xiao v BCEG International (Australia) Pty Ltd* (2023) 111 NSWLR 132 on account of profits and equitable compensation, *Catholic Metropolitan Cemeteries Trust v Attorney-General of New South Wales* [2024] NSWCA 30 on charitable trusts, and others.

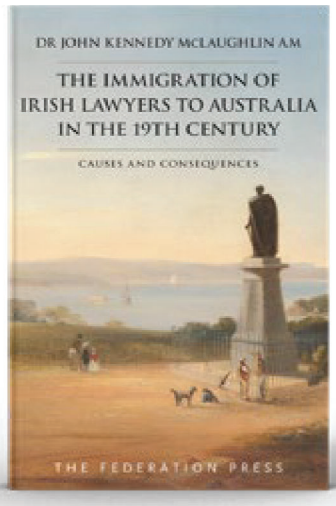
Equity and Trusts complements other equity texts in the market; it has the added advantage of a clear format that makes it an attractive option for quickly mastering an understanding of a topic or revisiting one long forgotten. Readers will find plenty to gain. BN

> *The book's purpose is to present the topic clearly to its reader ... its strength is its schematic structure, clear style and relatively short sentences.*

BOOK

The Immigration of Irish Lawyers to Australia in the 19th Century: Causes and Consequences

By John Kennedy McLaughlin (Federation Press, 2024)



Bede Kelleher SC
13th Floor St James Hall

At my first legal interview, for the position of tipstaff to Justice RL Hunter of the Supreme Court of New South Wales, the judge commenced the interview by telling me quite sternly he didn't like me very much. I was somewhat taken aback. He explained that when looking at my name, Bede Augustine Patrick Kelleher, he realised he couldn't ask me his favourite opening question: 'Are you a Catholic?'

Justice Hunter explained that when he had been looking for jobs at the start of his legal career, this question was frequently asked at the commencement of interviews, particularly of those with obviously Irish names.

Sadly, the late Dr John Kennedy McLaughlin AM, former associate justice of the Supreme Court of New South Wales, died before the publication of this fine work on the history of the immigration of Irish lawyers to the Australian colonies in the 19th century and their contribution to the Australian profession and society. The book is based upon Dr McLaughlin's doctoral thesis on the same subject.

With my interview with Justice Hunter in mind, I was both surprised and pleased to see that a central thesis of this work is that, at least in the first half of the 19th century, there was not so much a sectarian dislike for Irish Catholic lawyers as a general distaste for Irish lawyers regardless of their religion, both initially in the Australian colonies and for much longer in the United States.

Dr McLaughlin's thesis is that, unlike the Irish in America, by the end of the 19th century Irish lawyers in Australia no longer saw themselves as a separate community but as an integrated and successful part of Australian society, as did the rest of the Irish immigrant community here.

Perhaps not as surprising is the identification, in chapters 1 and 2, that the Irish immigrant lawyer experience was very much an exception for the Irish diaspora that commenced in the early 19th century. That mass emigration of millions, caused largely by widespread poverty, overcrowding and lack of opportunity for advancement, reached its peak with the Great Hunger of 1845 to 1852 and the near-contemporaneous American and Australian gold rushes.

Dr McLaughlin notes that the reasons educated middle-class Irish lawyers emigrated had little to do with the convict system or poverty. It did, however, have much to do with opportunity.

While several lawyers who were involved in the 1798 and 1848 uprisings were transported as convicts, the predominant reasons for leaving were the crowded profession in Ireland, difficulties gaining admission to the English Bar and the opportunities colonial courts offered in an era of patronage. The author cites the Supreme Court of New South Wales as an example: on its commencement in 1824, it had no barrier to the right of appearance for Irish lawyers.

The Australian colonies were seen as preferable by emigrating Irish lawyers because the former American colonies were seen as hostile to lawyers, the Irish and Catholics; India, not a settler colony and run by the East India Company for much of the century, attracted soldiers and entrepreneurs; and Canada was, in short, too French and too cold.

Another informative and surprising – to me, at least – feature identified in the book was the relative prevalence and prominence of Irish lawyers, both Protestant and Catholic, at all levels of the judiciary and the profession in the first half of the 19th century. In New South Wales these included such notable figures as Sir Roger Therry, John Hubert Plunkett, Sir Francis Forbes, Sir James Dowling and Sir Frederick Darley. The book contains an appendix that sets out an impressive list of notable 19th-century Irish lawyers.

Much of the excellent description of life at the New South Wales Bar for recently arrived Irish lawyers is drawn from the experiences and diaries of Thomas Callaghan, who arrived in Sydney in 1840. Callaghan had personal and professional experiences with many of those named above. Those experiences help demonstrate McLaughlin's argument that there was a sense of Irish solidarity in the early profession, with much professional and personal kindness, support, camaraderie, conviviality and, of course, some professional jealousy and gossip. *Plus ça change* [Ed: or *Dá mhéad a athraíonn rudaí*].

The author does not shy away from noting the negative perceptions of Irish lawyers in colonial society. Dr McLaughlin devotes a substantial portion of the work (chapters 4 and 8) to describing the sources of such distaste: thick brogues, unseemly frivolity, perceptions of excessive consumption of alcohol, the support for a public holiday for the Feast of St Patrick, and a disproportionate inclination to resolve personal disputes via the banned practices of duelling and horsewhipping.

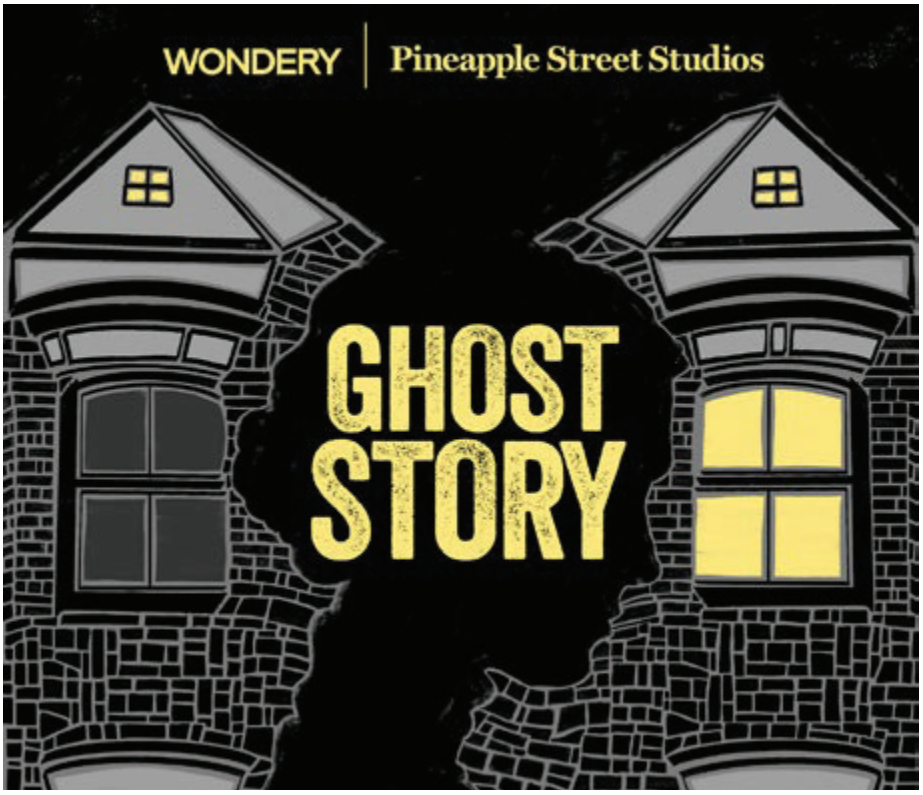
A marvellous piece of legal ephemera notes that Sir John Jeffcott, born in Tralee in 1796 and appointed as South Australia's first judge, is the only Australian judicial officer tried for murder (he was acquitted). Similarly, as a shameless fan of puns, I highly commend the passage cited from the *Sydney Morning Herald* of 10 June 1859 about the thick brogue of Irish barrister and sometime chief commissioner of insolvent estates, William Purefoy (p 94).

These same chapters, however, together with the conclusions in Chapter 9, highlight McLaughlin's arguments about the significant skills and contributions of Irish lawyers, not only to the judicial system in colonial Australia, but also to the life of the colonies as a whole. Equally, Chapter 5 focuses on the important role Irish lawyers played representing Indigenous Australians and the courageous prosecutions of the perpetrators of the Myall Creek massacre by the oft-overlooked Plunkett.

It would be remiss of me not to point out that Dr McLaughlin devotes a brief chapter (Chapter 6) to addressing the anomalous position of South Australia in receiving few Irish immigrants and even fewer lawyers. The more substantial Chapter 7 covers the achievements of non-practising Irish lawyers and, perhaps most importantly of all, debunking the myth that the wig bag on the back of a Victorian silk's robes is an Irish rose. BN

Summer podcast listening

Kylie Day
12 Wentworth Selborne Chambers



On 20 January 2025, Donald Trump will be sworn in as president of the United States of America. How wide will his presidential immunity be, and how will it apply to his criminal convictions? The answers to those questions, and many more, are provided by the narrators of the political podcast, *The Rest is Politics US*: British journalist Katty Kay and New Yorker Anthony 'the Mooch' Scaramucci. The Mooch was the White House director of communications for 10 days in July 2017, during the first Trump presidency. These two voices have been insightful, amusing and urbane company during the roller-coaster ride that has been US politics in 2024.

Politics aside, it has been a busy year for true crime podcasts. Two of my favourite discoveries have been the hit podcasts *Ghost Story* and *Crime Analyst*. There is a fascinating connection between them. Let me explain.

Ghost Story is really three intertwined stories: a ghost story, a murder mystery and a family drama that unfolds as the host, Tristan Redman, decides to investigate a murder that occurred a few generations back in his wife's family, the eminent Dancy family. The current generation of Dancys includes a philosopher, Professor Jonathan Dancy; a medical doctor, Dr Mark Dancy; a Hollywood actor, Hugh Dancy; and a diplomat, Kate Redman, who has worked for UNESCO and Save the Children. Kate is married to host Tristan Redman.

Tristan met Kate at university, and one day, when they were dating, her family joined his for lunch. Her grandad's first words as he entered Tristan's family home were, 'My mother was murdered in the house next door.'

The murder of Kate's great-grandmother, Dr Naomi Dancy, took place in the house next door to Tristan's family home in 1937. She was killed by two gunshots to the head. Naomi's brother, Maurice Tribe, was living with Naomi and her husband at the time. Maurice was a World War I veteran who had been awarded the Military Cross for bravery. He was killed on the same night as Naomi – found with his throat slit, sitting on the lavatory (as the British say) behind a locked door. The door was broken down by Naomi's husband, Dr John Dancy, who was known in the family as 'Feyther'. Feyther was the sole witness and survivor of these tragic events. He described them to the police the next day as a dramatic murder–suicide.

At the UK's National Archives, a researcher stumbled upon the police file for Naomi's murder. She found it so strange that she decided to write an article about it for the archives' blog, in which she raised serious questions about what happened on the night of the murder. She asked whether it was a murder–suicide or, in fact, a double murder. And she also asked whether the guilty party was Maurice Tribe or Dr John Dancy.

Strangely, the National Archives also held notes from the crime novelist Dorothy L Sayers to the detectives at Scotland Yard about the case. Dr John Dancy had telephoned her out of the blue about three weeks after the murder and invited her over for tea to see the scene of the crime before it was cleared away and to hear further details that 'she wouldn't get from the police'. The novelist was sufficiently disturbed by the conversation to write down a transcript of it, which she then passed on to Scotland Yard. Unsurprisingly, she declined to visit Dr Dancy for tea.

Kate happened upon the article at the National Archives while helping her father with her grandfather's obituary. She described it as 'mind-blowing'. With her blessing (at least, initially), Tristan obtained a copy of the police file and assembled a panel of eight consultant detectives who were willing to volunteer their time to help him understand it. The podcast was born. One of the volunteers was Jackie Malton, the retired detective and real-life inspiration for the character of DCI Jane Tennison, played by Helen Mirren, in the *Prime Suspect* television series written by Lynda La Plante.

Throughout the podcast, family members and the historian, Nick Hiley, raise some interesting questions. While they are mostly considering them in the context of a family's history, the questions they raise resonate with the reckoning that is going on in postcolonial cultures. And in reality, the

> Ghost Story *is really three intertwined stories: a ghost story, a murder mystery and a family drama that unfolds as the host decides to investigate a[n historic] murder in his wife's family.*

PODCAST

history of a family exists within a particular cultural and political context, as we are becoming increasingly aware. Tristan's family members openly discuss and disagree about how important it is to know and understand the past. How does it help anyone to know that there is a skeleton in the cupboard? they ask. Is it worthwhile to know the truth of the past if it is ugly? Can an ugly truth only lead to hurt? Is it good to destabilise people's sense of self? Is everything in the past also in the present? Does the past need sorting out, because it led us to where we are now? It's a fascinating discussion, even more so when the young children in the family weigh in with their own interests and questions – particularly Hebe, who is described as 'a totally normal child [who is] obsessed with death' (and Agatha Christie). Within five minutes, she's analysed the case with more insight than the police.

Over the course of the episodes, it becomes clear that some of the consulting detectives are frustrated at the way the podcast is evolving. One of them, Laura Richards, already hosts a long-running podcast of her own, *Crime Analyst*. Laura is a former Scotland Yard criminal behaviour analyst and renowned international expert on domestic violence, stalking, sexual violence and homicide, among other things. In five hour-long episodes of her podcast,[1] she offers a critique of *Ghost Story* and a deeper dive into the forensic, gender and cultural aspects of the case. These will be of great interest to people like me, who are more intrigued by the murder mystery and the evolving family drama than the ghost story.

Ghost Story is presented by Wondery and Pineapple Street Studios in seven episodes. It has won a number of awards, including the 2024 Ambie for Best Documentary Podcast, and it was nominated in the Best True Crime category at the 2024 British Podcast Awards. It was also the first 'Series Essential' recommendation on Apple Podcasts, a new feature in which the app's editors highlight one series each month.

The Rest is Politics US, *Ghost Story* and *Crime Analyst* are available to listen to now. Enjoy! BN

ENDNOTES

1 Episodes 167, 169, 171, 174 and 175.