

VICTORIAN REPORTS

THE AUTHORISED LAW REPORTS OF THE
SUPREME COURT OF VICTORIA

VOLUME 58
2018-2019

EDITOR
P G WILLIS SC

Published for the
COUNCIL OF LAW REPORTING IN VICTORIA
BY
LITTLE WILLIAM BOURKE
AUSTRALIA
2020



Little William Bourke

Little William Bourke (ABN 65 610 951 089).
AUSTRALIA Level 22
52 Martin Place
Sydney NSW 2000
Australia

ELECTRONIC victorianreports.com.au
littlewilliambourke.com.au

National Library of Australia Cataloguing-in-Publication entry

ISBN-13: 978-1-925633-11-5
ISSN: 0042-5214 (print); 2208-4886 (online).

©2020 Council of Law Reporting in Victoria

This book is copyright except as permitted under the *Copyright Act 1968* (Cth), no part of this publication may be reproduced by any process electronic or otherwise, without the specific written permission of the copyright owner. Neither may information be stored electronically in any form whatsoever without such permission.

Inquiries should be addressed to Little William Bourke.

Printed in Australia.

COUNCIL OF LAW REPORTING IN VICTORIA

As at 31 December 2019

Chairman

THE HON JUSTICE CAMERON CLYDE MACAULAY

Ex-Officio members

THE ATTORNEY-GENERAL

THE SOLICITOR-GENERAL

THE LIBRARIAN OF THE SUPREME COURT OF VICTORIA
(LAURELLE MARGARET ATKINSON)

Members

MICHAEL RICHARD PEARCE SC

GEOFFREY PETER PROVIS

ANNETTE MINA CHARAK

ANDREW ROBERT WESTCOTT

Honorary Secretary

GEOFFREY CHARLES HANSEN

Editor

P G WILLIS SC

Consultant Editor

L W MAHER

Law Reporters

J A BARRINGTON

N BLOK

R J BOADLE

C J CHARNLEY

T FARHALL

A T HOEL

L C HOGAN

D K R KINSEY

J P KRETZENBACHER

E LEVINE

J P O'CONNOR

R SCHEELINGS

R K SORENSEN

J P STOLLER

P G WILLIS SC

BARRISTERS-AT-LAW

M BAILEY

D L PORTER

SOLICITORS

E J MAKEIG

THE SUPREME COURT OF VICTORIA

As at 31 December 2019

CHIEF JUSTICE

THE HON ANNE FERGUSON

PRESIDENT OF THE COURT OF APPEAL

THE HON CHRISTOPHER MURRAY MAXWELL AC

JUDGES OF APPEAL

THE HON PAMELA MARY TATE

THE HON SIMON PAUL WHELAN

THE HON PHILLIP GEOFFREY PRIEST

THE HON DAVID FRANCIS RASHLEIGH BEACH

THE HON EMILIOS JOHN KYROU

THE HON STEPHEN WILLIAM KAYE AM

THE HON STEPHEN GEOFFREY EDWIN MCLEISH

THE HON RICHARD MICHAEL NIALL

THE HON KIM WILLIAM SPENCER HARGRAVE

THE HON TERENCE MICHAEL FORREST

THE HON KARIN LEIGH EMERTON

JUDGES OF THE TRIAL DIVISION

THE HON ELIZABETH JANE HOLLINGWORTH

THE HON KEVIN HARCOURT BELL AM

THE HON ANTHONY LEWIS CAVANOUGH

THE HON MICHAEL LEON SIFRIS

THE HON PETER WADDINGTON ALMOND

THE HON JOHN RUSSELL DIXON

THE HON CAMERON CLYDE MACAULAY

THE HON KATE MCMILLAN

THE HON GEOFFREY JOHN DIGBY

THE HON JAMES DUDLEY ELLIOTT

THE HON TIMOTHY JAMES GINNANE

THE HON MELANIE SLOSS

THE HON MICHAEL JAMES CROUCHER

THE HON JOANNE MARGARET CAMERON

THE HON CHRISTOPHER WILLIAM BEALE

THE HON MICHAEL PHILLIP McDONALD

THE HON RITA MARIA ZAMMIT

THE HON PETER JULIAN RIORDAN

THE HON JANE ALISON DIXON

THE HON ANDREW JOHN KEOGH

THE HON PETER BARRINGTON KIDD

THE HON MAREE EVELYN KENNEDY

THE HON MICHELLE LESLEY QUIGLEY

THE HON JOHN ROSS CHAMPION

THE HON MATTHEW NEIL CONNOCK
THE HON MELINDA JANE RICHARDS
THE HON KEVIN JOSEPH ALOYSIUS LYONS
THE HON LESLEY ANN TAYLOR
THE HON STEVEN JAMES MOORE
THE HON ANDREW JAMES TINNEY
THE HON JACINTA MARY FORBES
THE HON LISA MICHELLE NICHOLS

RESERVE JUDGES

THE HON DAVID JOHN ASHLEY AM
THE HON PAUL ANTHONY COGHLAN AO
THE HON MALCOLM FRASER BLUE
THE HON ROSS MCKENZIE ROBSON
THE HON MARK SAMUEL WEINBERG AO
THE HON ROBERT STANLEY OSBORN
THE HON LEX LASRY AM
THE HON GREGORY HOWARD GARDE AO

ASSOCIATE JUDGES

THE HON JOHN EFTHIM
THE HON ALEXANDER JAMIE WOOD
THE HON ROBYN GAY LANSDOWNE
THE HON MELISSA LEE DALY
THE HON SIMON PETER GARDINER
THE HON NEMEER MUKHTAR
THE HON RODNEY STUART RANDALL
THE HON DAVID MARK BRUDENELL DERHAM
THE HON MARY-JANE IERODIACONOU

JUDICIAL REGISTRARS

MARGARET CAIRNS GOURLAY
JULIAN MICHEL KALMAN HETYEY
IAN ANDREW IRVING
LEONIE MARGARET ENGLEFIELD
PATRICIA MATTHEWS
MARK WILLIAM PEDLEY
JULIE KIRSTEN CLAYTON
DANIEL DONATO CAPORALE

JUDGE IN ADMIRALTY

THE HON GEOFFREY JOHN DIGBY

ATTORNEY-GENERAL

THE HON JILL HENNESSY MP

SOLICITOR-GENERAL

KRISTEN WALKER QC

Memoranda

2019

- | | |
|------------|---|
| 5 October | The Honourable Clyde Elliot Croft, a Judge of the Trial Division since 2009, retired. |
| 22 October | Lisa Michelle Nichols QC was appointed a Judge of the Trial Division. |

Corrigenda

In vol 57, p 575, the narration for *Carter Holt Harvey Woodproducts Australia Pty Ltd* (M43/2018) should read: 'Appeal dismissed. Affirmed as to part on different grounds'.

In vol 57, p 713, the narration for *Connective Services Pty Ltd* (M131/2018) should read: 'Appeal dismissed'.