

Australian Bar Review

Volume 56 Part 1

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[From logos to likes: Defending reason in justice in the Digital Age](#)

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[Legal professional privilege and the fight against corporate misconduct](#)

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This article supports the role of legal professional privilege to enable clients to obtain legal advice in the knowledge that their lawyer/client communications will remain confidential. It recognises the risk of misuse of legal professional privilege to frustrate investigations undertaken by regulatory authorities as documented in the Wheat Board Royal Commission and in the Tobacco and PwC cases. It highlights the importance of the non-application of legal professional privilege if it is intended to act as a cloak for illegality in the form of crime, fraud or iniquity. It endorses reforms especially in the pre-trial phase to ensure that protections against the abuse of legal professional privilege facilitate a consolidated effort to counter the abuse of legal professional privilege. The article supports counter-strategies to deter, disrupt and to penalise enablers of corporate crime which could include new legislation to lift legal professional privilege in regards to professional enablers when they are being investigated for corporate crime.

[Cognitive bias in medical decision-making: Should the law consider evidence of probability of bias from other disciplines?](#)

— *Karena Viglianti-Northway*

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A substantial body of expert literature from the biological and social sciences demonstrates that discriminatory decision-making in medicine often stems from cognitive biases. This article explores how courts can utilise this evidence. This is illustrated through a case study of a direct discrimination claim under Australian discrimination laws. It advocates for the legal profession to consider how insights from other relevant disciplines (that have now extensively examined the issue of unlawful discriminatory bias in medical decision-making) can be received in legal claims made by patients. By building on discussions that have already been initiated by prominent members of the Australian judiciary and the legal profession on the law's approach to probability and proof, the case study seeks to highlight an area where the legal standard of probability does not presently appear to align with the best available evidence from other disciplines on what patients are actually experiencing in their medical treatment.

The polite judge — Charles Bowen
— *Fabian Di Lizia and Kevin Connor SC*

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The life of Lord Charles Bowen of Colwood bears much experience and insight for the contemporary practitioner, notwithstanding it is almost 200 years since his birth. Bowen delivered many storied judgments on the Court of Appeal and sat on the House of Lords. He was an ardent classicist, befriended George Eliot, played cricket at Lord's and wrote love poems. But he also struggled at the Bar and with life on the Bench such that it damagingly impacted his health. From his life, the law and its practitioners have drawn deep inspiration, and the common thread of much of it was his imagination.

A constitutional guarantee of habeas corpus
— *Jonathan Tjandra*

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This article argues that the Commonwealth Constitution guarantees the jurisdiction and power of courts to issue writs of habeas corpus to inquire into a person's detention by an official and order the detainee be released if it exceeded their authority. Firstly, habeas corpus is entrenched as a defining characteristic of a State Supreme Court. Secondly, s 75(v) of the Constitution entrenches the High Court's jurisdiction and power to grant habeas corpus as ancillary or incidental to s 75(v) remedies. Thirdly, s 75(iii) entrenches the High Court's jurisdiction to hear cases in which the writ is sought against the Commonwealth. The High Court has the power to award appropriate remedies where its jurisdiction is enlivened, in order to make that conferral of jurisdiction effective.

Case Note

The fundamentals of proprietary estoppel — Where are we now? — The latest conspectus from Gleeson JA in *Pirrottina v Pirrottina* [2025] NSWCA 55
— *Lee Aitken*

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