EDITORIAL

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Anniversaries are often used as key touchpoints in collective memory, commemorating significant occasions past. The recognition of 'anniversary' is nothing new, with prehistoric landmarks like Stonehenge displaying the commemoration of the most natural of anniversaries – the coming and going of the seasons.[1] A 50th anniversary is aptly dubbed a 'Golden Jubilee'. While the *University of New South Wales Law Journal* ('*Journal*') is certainly far newer than the seasons and Stonehenge, the Golden Jubilee of an institution is nevertheless cause for celebration. It is then unsurprising that in 2025, much of the *Journal*'s focus was on its 50th year. Each editor of that associated volume was sure to mention the milestone,[2] recognising a legacy that long predated their tenures, but of which they were an enduring part.

The question for me, as Editor of the first Issue launching in the 51st year, is where to now? This is certainly not a unique query. Under the doctrine of *stare decisis*, the legal system ensures 'its own internal uniformity, coherence, and predictability in the application of the law'.[3] Thus, it is unsurprising that in our common law system, 'landmark' decisions which set new precedents receive significant attention – the effect of those decisions is long-lasting, forcing the legal community to revise its practices. The question for the *Journal* then, is a microcosm of what intermediate courts frequently traverse: how to apply the learnings of the past to the issues of the present. This exercise has been constantly repeated throughout the *Journal*'s first 50 years, with processes being fine-tuned along the way.[4] What has endured is a commitment to insightful, rigorous, generalist scholarship on the development of the Australian legal system.

It is with this in mind that the theme for the launch of Issue 49(1) was selected – 'The Day After: Developing the Law following Landmark Events'. Law reform

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* Editor, Issue 49(1).

1 Cullen Murphy, 'The Anniversary Mystique' (2001) 25(4) *Wilson Quarterly* 156, 157. For the sociologically inclined, see also Émile Durkheim, *The Elementary Forms of Religious Life*, tr Carol Cosman (Oxford University Press, 2009) <https://doi.org/10.1093/owc/9780199540129.001.0001>.

2 Fiona Shah, 'Editorial' (2025) 48(1) *University of New South Wales Law Journal* 1, 1; Cordella O'Loughlin, 'Address at the Launch of Issue 48(2)' (Speech, University of New South Wales Law Journal, 22 July 2025) 1, 6 (copy on file with author); Sophie Nguyen, 'Editorial' (2025) 48(3) *University of New South Wales Law Journal* 747, 747; Bisesh Belbase, 'Editorial' (2025) 48(4) *University of New South Wales Law Journal* 1103, 1104–6.

3 Oxford University Press, *Max Planck Encyclopedia of Public International Law* (online at 2 March 2026) 'Stare decisis' [1].

4 See also Shah (n 2) 1.

is often prompted by a major event, a shock to the system of some kind. Looking to the apex of the Australian court system, perhaps one of the most 'shocking' cases of the past few years was *NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs* ('*NZYQ*').[5] In holding that the indefinite detention of the '*NZYQ* cohort'[6] was invalid, the decision led to the immediate release of 149 of detainees.[7] In the opening article, Anne Carter examines the impact of this decision through her prescient analysis of the High Court of Australia's 2024 constitutional law term, observing a relatively quiet year for the Court. The article then focuses on how the 2024 cases largely deal with the impacts of *NZYQ*, through the overarching lens of 'continuity and change'.[8]

Constitutional change is also a significant theme in Harry Hobbs' examination of Indigenous–State treaty-making. The article follows both the passage of the Victorian *Statewide Treaty*,[9] a significant development in Australian treaty-making, and the 2023 Indigenous Voice Referendum where 'Voice, Treaty, Truth' was curtailed prior to any substantive treaty talks, showing that 'The Day After' can be progressive despite major roadblocks. Further ruminations on Indigenous–State relations are contained in Olivia Barr's article, which argues against the idea that all questions of First Nations' sovereignty are non-justiciable in Australian courts. She evaluates the decision of *Coe v Commonwealth* ('*Coe*'),[10] the main appellate decision on this point, through the lens of precedential value. This analysis of *Coe* is made more poignant by the recent passing of its plaintiff, Paul Coe, whose legacy is beautifully reflected on within the article.

The Issue then takes a regulatory bent, beginning with Partick Hart and Juliette Overland's comparative analysis of insider trading laws as they apply to lawmakers in Australia and the United States. In identifying areas of regulatory weakness, they refer to accusations of insider trading against lawmakers that have at various points captured the attention of the public. Regulation is also a theme in Tim Bowley's article on superannuation funds and corporate governance. In his analysis, he uncovers a deeper sense of market concern over fund influence that followed in the wake of the 'AusSuper–Origin incident' that saw AustralianSuper increase its shares in Origin Energy as part of an attempt to block a takeover.

In the realm of equity, William Garske examines the possibility of lawful act duress being recognised in Australia, a question left open in the case law. In doing

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5 (2023) 280 CLR 137.

6 Andrew & Renata Kaldor Centre for International Refugee Law et al, *Immigration Detention in Australia: Civil Society Submission to the United Nations Working Group on Arbitrary Detention* (Report, August 2025) 1.

7 Department of Home Affairs, Information Provided in Response to a Request from Senator James Paterson and Senator the Hon Michaelia Cash in Relation to High Court Decision in *NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs* to Senate Standing Committee on Legal and Constitutional Affairs, *2023–24 Additional Estimates* (12 February 2024) <https://www.aph.gov.au/-/media/Estimates/legcon/add2324/Home_Affairs/6_Dept_Home_Affairs__Info_request_from_Sen_Paterson_and_Cash_regarding_NZYQ.pdf>.

8 Anne Carter, 'Navigating Continuity and Change: The High Court on Constitutional Law in the 2024 Term' (2026) 49(1) *University of New South Wales Law Journal* 5, 5.

9 Enacted via the *Statewide Treaty Act 2025* (Vic).

10 (1979) 53 ALJR 403.

so, he draws predominantly on Lord Hodge's judgment in *Times Travel (UK) v Pakistan International Airlines Corpn*,[11] which was reasoned on the basis of an unconscionability standard, arguing that this is the ideal test for this doctrine. Through its necessary focus on English law, the article indicates the importance of engaging with landmark decisions in other common law countries.

Michael Crawford then applies an economic analysis to offer a unique perspective on environmental regulations. He critiques New South Wales ('NSW') eschewing common law principles and moving to a statutory scheme. With its focus on local regulation, the article situates the 'big picture' in everyday reality. Economic considerations are also central to Charlotte Macdonald and Shireen Morris' article on gambling reform in NSW. Examining the Minns Government's cashless gambling trial, they evaluate how we best move forward following the failure of a major regulatory change. Of course, a *lack* of regulation is also a risk, a fact clearly exemplified by Vivien Chen, Jozica Kutin, and Roslyn Russell's research into Buy Now Pay Later ('BNPL') and its intersection with family violence. While the easy access to credit provided by BNPL is significant, the article is an example of the unintended consequences that can flow from reform.

Last but certainly not least, Sara Dehm closes the Issue on an extraterritorial note. She highlights that despite multiple high-profile incidents of medical emergencies occurring in immigration detention, inadequacies persist. Combined with a reluctance for reform, the article makes clear the harms that can arise when landmark events are ignored or inadequately addressed. However, Dehm looks to broader reform that challenges racialised detention regimes, demonstrating that stagnation should not be deterministic in law reform.

These 10 articles each bring something unique to the discussion of law reform, and it is a great source of pride to have them mark the beginning of Volume 49. I sincerely extend my thanks to their 14 authors, who have dedicated great time and effort into their articles. The process of review is daunting and filled with uncertainty, so I especially acknowledge the tenacity that these authors embody. Of course, I must also extend my gratitude to the anonymous peer reviewers who give their time despite knowing they cannot be credited in name. Their insight is invaluable in further sharpening these articles for publication.

The *Journal* is also indebted to our Premier Sponsors whose support has brought us to our 51st year – Corrs Chambers Westgarth ('Corrs'), Allens, Herbert Smith Freehills Kramer, and Mallesons. Particular thanks must go to Corrs for their hosting of what I am sure will be another fantastic launch event. Also key to this launch is the Honourable Justice Lenehan of the Federal Court of Australia. Noting his Honour's extensive constitutional law experience, I am excited to witness what will surely be an insightful, informative, and stimulating keynote address.

The *Journal* is proudly a print publication. I thank Kerry Cooke for her always reliable typesetting and Peta Lee for her distinct cover design. Their work ensures that the *Journal* remains a capable host for the excellent scholarship within it.

11 [2023] AC 101.

The endurance of the *Journal* as a student-run publication also benefits from the support of the Faculty of Law & Justice. Faculty Advisors Professors Rosalind Dixon and Gary Edmond have long provided essential support, helping the Executive Committee to navigate every unexpected event, while also advising on the day-to-day affairs of the *Journal*. It is bittersweet to be writing this acknowledgement, as Professor Dixon has recently concluded her time as a Faculty Advisor after a decade. The Executive Committee is incredibly grateful for her commitment over the years and will be sad to see her go. Another point of advice is the Faculty's Dean, Professor Andrew Lynch, whose fervent support of the *Journal* has been a source of joy and reassurance for Executive Committees past, present, and surely future.

Speaking of the Executive Committee, I am eternally grateful to have served my tenure with individuals on the 2025 and 2026 Committees, who have been remarkably genuine with their time and support, both on *Journal* matters and beyond. I am excited to see what is to come from the rest of the 2026 Executive and am confident they will continue the *Journal*'s legacy. This Issue would also not exist without the efforts of our 'Boardies', who check every letter, punctuation mark, and space multiple times over. This Issue is greatly the product of their hard work.

Finally, thanks must go to my friends and family, who in the past year or so have often had to work around the *Journal* when they require my time. Their support regardless of that has been a highlight and I am proud to have something to show for it.

Rather than ruminate on a pithy, eloquent way to conclude this Editorial, I think perhaps it would be best to 'end' with an open door and usher in the next 50 years. So, to the 2075 Executive Committee, I will see you at the 100th anniversary event.