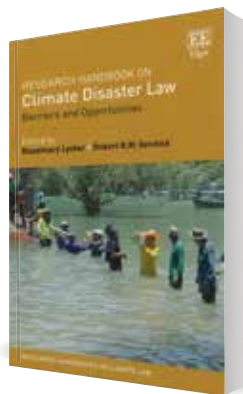


IN_PRINT

This month's books cover climate disaster law, true crime, ethics in mediation and selected speeches of Dyson Heydon.



Research Handbook on Climate Disaster Law

Rosemary Lyster and Robert RM Verchick (eds), Edward Elgar Publishing, 2018, hb

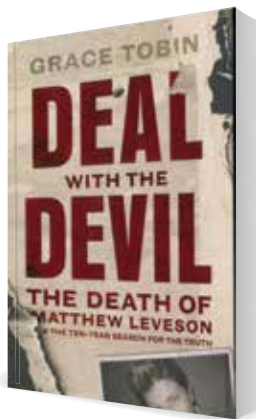
Climate law is developing at a time when it is recognised that environmental laws are now encompassing multiple areas of the law not traditionally understood as being “environmental” at all – including finance, consumer and insurance laws. Yet climate lawmakers and climate litigants are still very much focused on climate mitigation law – that is, using regulatory and other legal tools to reduce greenhouse gas emissions.

While governments grapple with reducing (or not) emissions, legal scholars have been highlighting the need for the law to adjust or be employed for the reality of climate change. There now exists a depth of literature and ideas about the law for climate adaptation – laws to be used or created to support humans and the environment in a world that is warmer and with extreme weather events.

Climate disasters represent those weather events that have the most extreme impacts on humans. The *Research Handbook on Climate Disaster Law* highlights the scope and extent of relevance of the law to disasters that befall humans owing to the global community not responding soon enough to the threat of climate change. In this book two dozen

globally regarded academics identify various areas of law that have pertinence to climate disasters. The contributors tease out how the law applies now and, more importantly, how it must develop for the future that confronts us. This edited collection is a call to lawmakers to accept the reality of climate change and think about addressing the disastrous consequences of their inaction.

Brad Jessup, Centre for Resources, Energy and the Environment, Melbourne Law School



Deal with the Devil

Grace Tobin, Penguin Random House, 2018, pb \$35

This is the story of the death of Matthew Leveson and his family's quest for justice and their search for his body. Tobin is a journalist and is currently a producer of *60 Minutes*. She won a Walkley Award in 2017 for the *60 Minutes* story on Matthew Leveson's death.

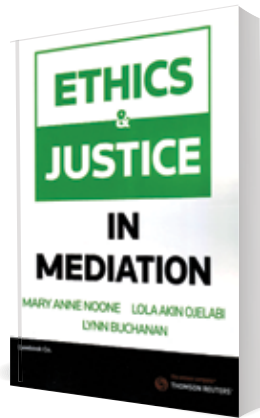
Leveson died in 2007 after a night out to an Oxford Street nightclub in Sydney with his jealous and possessive much older partner, Michael Atkins. His body could not be located and it took an

exhaustive investigation and a passionate campaign by his parents before Atkins was charged with his murder. After a voir dire in which crucial admissions were excluded (on good legal grounds), Atkins was found not guilty of both murder and manslaughter by a Sydney jury.

However, Leveson's parents did not abandon their efforts to seek justice, bemoaning that they had funeral envy – being unable to say a formal goodbye to their son – and persuaded the NSW State Coroner to convene an inquest. In the course of that inquest and in the context of arguments about the privilege against self-incrimination, after Atkins had apparently lied under oath, a bargain was made whereby Atkins would not be charged with perjury on condition that he revealed the site of Leveson's body. The deal was struck and Atkins did so, asserting that Leveson had died of a party drug overdose and that Atkins had buried him in bushland for fear he would be blamed. An autopsy after so much time shed little light on the matter. After a decade Leveson's parents were able to give him a decent burial.

Tobin has punctiliously researched every aspect of Leveson's life and death. She relates the extraordinary tale of the search for what happened to him in an engaging and lively way, largely avoiding sensationalism and judgmentalism. She captures graphically the distress of the deceased man's parents and the limitations of the criminal justice system when there is not enough reliable evidence against the only suspect. This is a fine piece of investigative journalism and makes entertaining and thought-provoking reading.

Dr Ian Freckelton QC, Barrister



Ethics and Justice in Mediation

Mary Anne Noone, Lola Akin Ojelabi, Lynn Buchanan, Thomson Reuters, 2018, pb \$125

This book is a triumph, the result of qualitative research of mediators practising in Victoria conducted by the authors who are based at La Trobe University.

Dilemmas which mediators might face in commonly mediated areas are properly considered here. A consumer dispute, a sexual harassment dispute, a planning dispute, a neighbourhood dispute and a cross-cultural dispute were put to the 21 mediators who took part in this research, who gave comments on how they would act in any particular scenario.

These scenarios are used as a framework with which to consider serious questions such as informed decision-making and fairness, self-determination and public interest, confidentiality and disclosure, good-faith capacity and motions and cultural and mediator's values.

The first scenario involves "Frank" in a VCAT matter opposed to the Easy Car Yard over a car loan where he is prepared to accept what is perceived to be an unfair offer.

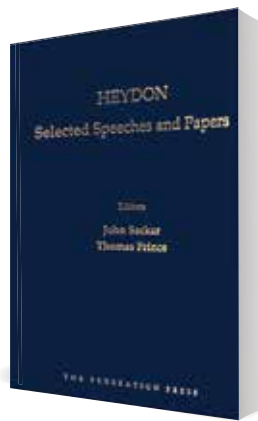
This is something which arises frequently in the case of lawyers acting as a mediator in the facilitative approach where we are conscious of our duty to the parties and of justice.

One mediator said "it's an ethical dilemma because we feel uncomfortable about something, and that might be that we are uncomfortable with the fairness of the outcome . . . as human beings we do feel bad if it's not a fair outcome".

This book would appeal to all lawyers, particularly those who practise in mediations, and all mediators.

For me the lightbulb moment was "a well-run mediation addresses issues of power".

Tasman Ash Fleming, Barrister



Heydon: Selected Speeches and Papers

John Sackar and Thomas Prince (eds), The Federation Press, 2018, hb \$180

Who has the more difficult task – the editors of this book, who had to reduce Dyson Heydon's prodigious writings to 763 pages, or the book's unhappy reviewer, who has to reduce the 763 pages to 250 words? While I will likely fail in my endeavour, John Sackar and Thomas Prince have done a remarkable job of selecting and presenting the works of this great Australian jurist.

The editors' task was made exceedingly difficult by the fact that Heydon has authored seminal works in so many different areas of law. Although best known for his writing on evidence and equity, Heydon has also made significant contributions in the fields of judicial method, constitutional law, contracts, criminal law, Australian legal history and judicial biography. Unsurprisingly, then, there is something in this book for everyone, including such varied subjects as: the history of evidence law in India, American constitutional interpretation, the remedial constructive trust, and the formalist theory of the Rule of Law.

Whether or not one agrees with Heydon's rather conservative judicial philosophy, the depth and the breadth of the scholarship here confirm Heydon as a titan of modern Australian jurisprudence. Incredibly, however, the works in this edition comprise only a fraction of Heydon's published work and the editors intimate that we can expect a second edition sometime in the future. Until then, there is plenty to ponder in this rewarding first instalment. ■

Julian R Murphy, Criminal Appeals Manager, North Australian Aboriginal Justice Agency

LAW BOOKS

Statutory Interpretation in Australia e8 (hardcover)



D C Pearce and
R S Geddes
Member: \$225
Non-member: \$250

Forty years on since the first edition was published and eight editions later, Statutory Interpretation in

Australia remains the preeminent text on the subject. This new edition concentrates on statements of the courts and tribunals.

www.liv.asn.au/StatutoryInterpretation

Writing and Drafting in Legal Practice



Paul Rylance
Member: \$54
Non-member: \$60

Writing and Drafting in Legal Practice provides an up-to-date and comprehensive guide to writing and drafting – from the first

stages of preparation to the final edit. This book condenses and combines the main principles, rules, techniques and conventions.

www.liv.asn.au/LegalWritingDrafting

Legal Usage A Modern Style Guide



Peter Butt
Member: \$112.50
Non-member: \$125

This guide is clear, unambiguous and great for legal usage. It highlights the techniques that writers need for effective,

compelling legal writing. The easy-to-use layout facilitates ready understanding of best practice for legal vocabulary and drafting style.

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