



## **Opening address by the Chief Justice at the 'Binding Authority: 150 Years of the Victorian Reports' Symposium**

Friday 30 May 2025

I acknowledge that we gather on the land of the people of the Eastern Kulin nation. I pay my respects to their elders past and present. I also pay my respects to any First Nations people here today.

We are here to celebrate the 150th anniversary of the Council of Law Reporting and the Victorian Reports, to hear from contributors to the commemorative volume of the Victorian Reports, and of course to launch the volume.

As one contributor to the volume wrote, the 'importance of law reports needs no explanation', and he cited Windeyer J's comment that 'Ever since the time of the Year Books law reports have been the essential nourishment of the common law'.

The time of the Year Books means the 13th century. Since the 13th century, there has been a continuous stream of reports of cases before courts in common law systems. The language, scope, accuracy and professionalism of the reports has varied over the centuries. For instance, the earlier Year Books were written in the Anglo-French dialect spoken in court. In terms of content, they bore little resemblance to modern reports. They were brief, sometimes omitting party names and the facts. The authors were anonymous, but they are suspected to have been clerks, court officials, lawyers involved in the case, lawyers who were observers, or law students. Another difference is the reports did not necessarily distinguish between the author's views and the judge's views.



Modern law reports are professional, and they contain a judge's reasons for decision, which are an integral part of the judicial process. In *Wainohu v New South Wales*, the High Court considered the institutional integrity of State Supreme Courts, and the importance to that integrity of judges giving reasons.

French CJ and Kiefel J said the defining characteristics of a court include that it 'generally gives reasons for its decisions'.<sup>1</sup> Their Honours quoted Gleeson CJ's speech on 'Judicial Accountability', where his Honour summarised the objectives underlying the duty to give reasons. Gleeson CJ said:

First, the existence of an obligation to give reasons promotes good decision making. As a general rule, people who know that their decisions are open to scrutiny, and who are obliged to explain them, are more likely to make reasonable decisions. Secondly, the general acceptability of judicial decisions is promoted by the obligation to explain them. Thirdly, it is consistent with the idea of democratic institutional responsibility to the public that those who are entrusted with the power to make decisions, affecting the lives and property of their fellow citizens, should be required to give, in public, an account of the reasoning by which they came to those decisions.<sup>2</sup>

If we think about reasons for decision, and what they contain, the most obvious aspects are the facts as found by the judge, the relevant legal principles to be applied, and the application of those principles to the facts. These are of immediate importance to the parties, and they enable the parties to consider whether to appeal the decision.

---

<sup>1</sup> *Wainohu v New South Wales* (2011) 243 CLR 181, [44].



However, once published, the value of a judge's reasons is transformed, and it far exceeds the value of quelling a controversy. Published reasons provide the necessary conditions for a system of precedent. Published reasons promote open justice, allowing members of the public to understand the work of the courts and the outcomes of the cases. Courts are increasingly engaging with the community in novel ways, such as the Supreme Court of Victoria's Gertie's Law podcast, however it remains that judges primarily speak through their reasons.

Publishing reasons also provides accountability and sustains public trust in the administration of justice. This is critically important today, when trust in institutions of government is being challenged. We witness challenges to the rule of law in many countries, and recently in the US there has been undue criticism of judges by the government. There has even been a call for a judge's impeachment. Chief Justice Roberts responded to these threats to the judiciary.

In his '2024 Year End Report on the Federal Judiciary', Chief Justice Roberts said 'public engagement with the work of the courts results in a better-informed policy and a more robust democracy', and 'in a democracy...criticism comes with the territory'. However, there are limits, and Chief Justice Roberts identified intimidation and disinformation as examples of illegitimate activity that threatens judicial independence and therefore the rule of law. He said disinformation includes distortion of the factual or legal basis for a ruling, and bots distorting judicial decisions.

A function of authorised law reports is to provide an authoritative source of case law, with the

---

<sup>2</sup> Ibid [56].



accuracy of a report being confirmed by the judge before publication. In the face of growing concerns around disinformation, and the rise of generative AI, which is already being used by legal professionals and court users, having an authoritative source of case law is invaluable. With a proud history of 150 years, the Victorian Reports are a recognised source of truth when it comes to the decisions of the Supreme Court of Victoria. Of course we cannot afford to assume that the mere existence of authorised reports is a sufficient bulwark against distortions and inaccuracies. That is why the Council of Law Reporting in Victoria's work to preserve and revitalise the role of authorised reports is so important.

Aside from being accurate and reliable, authorised law reports are also selective, containing only the most significant cases. They act as a filter for the vast body of case law from the superior courts, assisting courts, legal professionals and students to discriminate more efficiently between leading authorities on a question, and less consequential decisions. Or as the commemorative volume puts it, discriminating between the gold and the dross. Used well, law reports can reduce the time spent by parties and the Court navigating the wealth of case law now available on online databases.

Today's symposium mirrors the Binding Authority commemorative volume, in that you're hearing from me at both the beginning and the end. I look forward to launching the commemorative volume this evening after a day of reflection on the highlights of the Victorian Reports over the last 150 years.