

# LAWS1001 Enterprise Law

## Tutorial Questions: Module 1 - Australian Legal System

1. Discuss the significance of the separation of powers doctrine and compare it to the division of powers doctrine

The separation of powers works together with the principle of 'responsible government' to guide the way law is made and managed. Responsible government means that a party or coalition of parties must maintain the support of the majority of members of the House of Representatives in order to remain in government. The doctrine of the separation of powers divides the institutions of government into three branches: legislative, executive and judicial.

2. What are the main differences between the legal systems used in civil law and common law countries? Identify at least 2 countries that use civil law and 2 that use common law systems

In the common law the courts are supposed not only to decide disputes between particular parties but also to provide guidance as to how similar disputes should be settled in the future.

Common Law - 2 main sources of law are **legislation** and **case law**

- Parliamentary Sovereignty and the rule of law
- Australia and Canada

Civil Law - France and Germany

The civil law practice helps resolve legal issues that impact on people's everyday lives such as debts, unpaid fines, discrimination, tenancy issues, Centrelink disputes and more.

3. Explain the most significant legal changes created by the *Australia Act 1986* (Cth).

The Australia Act 1986 was passed which moved all the remaining 'colonial ties' to Britain. The British parliament was no longer in charge of state laws, or made laws for the Australian colony.

4. How can the Australian Constitution be changed?

The Australian Constitution can only be altered by referendum. All Australians of voting age vote yes or no for the proposed changes.

- Absolute majority if both sides of parliament
- Referendum needs a majority requirement, majority of votes, majority of states. Minimum of 4 states. Chief Minister

5. To what extent did the British recognise the Indigenous legal system? What is native title

- Terra Nullius
- Recognition for aboriginal land rights

6. What happens if a Federal law and a State law conflict?

Section 109 of the Constitution says that when a federal law is inconsistent with (or conflicts with) a state law, the Commonwealth law will prevail, and the state law will be invalid.

# The Enterprise Of Law Questions In Legal Experience And Philosophy

**Nancy Black Sagafi-nejad**

## **The Enterprise Of Law Questions In Legal Experience And Philosophy:**

**The Enterprise of Law** Malcolm Clark,1987    *Legal Theory and the Legal Academy* Maksymilian Del Mar,2017-07-05

The third in a series of three volumes on Contemporary Legal Theory this volume deals with four topics 1 the role of legal theory in the legal curriculum 2 the teaching of legal theory 3 the relationship of legal theory to legal scholarship and 4 the relationship of legal theory to comparative law The focus of the first two topics is on the common law world where the debates over the aims and proper place of legal theory in the study of law have traversed a good deal of ground since John Austin's 1828 lecture *The Uses and the Study of Jurisprudence* These first two parts offer a selection of the most important papers including surveys as well as pedagogical viewpoints and particular course descriptions from analytical critical feminist law and literature and global perspectives The last three decades have seen just as many changes for legal scholarship and comparative law These changes such as the rise of empirical legal scholarship have often attracted the attention of legal theorists Within comparative law the last thirty years have witnessed intense methodological reflection within the discipline the results of these reflections are themselves properly recognised as legal theoretical contributions The volume collects the key papers including those by Neil MacCormick Mark Van Hoecke Andrew Halpin William Ewald and Geoffrey Samuel

**Tijdschrift voor philosophie** ,1988    *Friends at the Bar* Nancy Black Sagafi-nejad,2012-01-02

George Fox founder of the Religious Society of Friends admonished his followers against going to law In this fascinating wide ranging book a Quaker lawyer explores the relationship between Quakers and the American legal system and discusses Friends legal ethics A highly influential group in the US both for their spiritual ideals of harmony equality and truth telling and for their activism on many causes including abolition and opposition to war Quakers have had many noteworthy interactions with the law Nancy Black Sagafi nejad sketches the history and beliefs of the early Quakers in England and America then goes on to look at important twentieth century constitutional law cases involving Quakers many involving civil rights issues Sagafi nejad's survey of 100 Quaker lawyers shows them to be at odds with the adversarial system and highlights a legal practice which must balance truth telling and zealous advocacy The Quaker development of extra legal dispute resolution to solve debates amongst Friends is discussed along with a look at the possible future of mediation

**Bibliographisch repertorium** ,1988    *Bowker's Law Books and Serials in Print* ,1995    **Judicial Review in an**

**Objective Legal System** Tara Smith,2015-07-30 This book grounds judicial review in its deepest foundations the function

authority and objectivity of a legal system as a whole    **Proceedings of the American Philosophical Society Held at Philadelphia for Promoting Useful Knowledge** American Philosophical Society,1947    *Public Service, Ethics, and Constitutional Practice* John Anthony Rohr,1998 For civil servants who take an oath to uphold the Constitution that document is the supreme symbol of political morality Constitutional issues are addressed by civil servants every day whenever a policeman arrests a suspect or members of different branches of government meet But how well do these individuals really

understand the Constitution's application in their jobs. This book encourages civil servants to reflect on specific constitutional principles and events and learn to apply them to the decisions they make. Twenty seminal articles by a preeminent scholar seek to legitimate public service by grounding its ethics in constitutional practice. John Rohr stresses that ethical practice demands an immersion in the specifics of our constitutional tradition and he offers a guide to attaining a greater sense of those constitutional principles that can be translated into action. Along the way he considers such timely issues as financial disclosure, the treatment of civil servants as second class citizens and instances of civil servants caught between executive and legislative forces. Rohr's opening essays demonstrate that responsible use of administrative discretion is the key issue for career civil servants. Subsequent sections examine approaches to training civil servants using constitutional principles, character formation resulting from study of the constitutional tradition and the ethical choices that are sometimes posed by separation of powers. A final group of chapters shows how a study of other countries' constitutional traditions can deepen an understanding of our own while a closing essay looks at past issues and future prospects in administrative ethics from the perspective of Rohr's long involvement in the field. Throughout this insightful collection Rohr seeks to remind public servants of the nobility of their calling, reinforce their role in articulating public interests against the excesses of private concerns and encourage managers to make greater use of constitutional language to describe their everyday activities. Although his work focuses on the federal career civil servant, it also offers valuable lessons applicable to state and local civil servants, elected officials, judges, military personnel and those employed in the nonprofit sector.

**Proceedings, American Philosophical Society (vol. 91, no. 5), Recht und Frieden in der Philosophie Kants** Valério Rohden, 2008 *Wrongs, Harms, and Compensation* Adam Slavny, 2023 In this work Adam Slavny explores our moral duties to respond to wrongs and harms and defends the significance of these duties for the normative foundations of tort law *Paperbound Books in Print*, 1992

*The Cumulative Book Index*, 1988 A world list of books in the English language **Annual review of law and ethics**, 2000 *Books in Print Supplement*, 1994 *ABA Journal*, 1966-09 The ABA Journal serves the legal profession. Qualified recipients are lawyers and judges, law students, law librarians and associate members of the American Bar Association.

**National Reporter on Legal Ethics and Professional Responsibility: Federal and state court cases**, 2004

Glendale Law Review, 1976 **The Canada law journal**, 1872

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