



Friday, 25 October 2024

Weekly Wills, Estates and Superannuation Law

A Weekly Bulletin listing Decisions
of Superior Courts of Australia covering Wills Estates and
Superannuation Law

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Executive Summary (One Minute Read)

Bones (as Executor of estate of late Milford Lewis Bones), Bones v Armstrong (TASSC) - grant of probate of 2012 will revoked, and probate granted in respect of 2021 will, where the 2021 will was discovered after probate had been granted of the 2012 will

HABEAS CANEM

Habeus Halloween



Summaries With Link (Five Minute Read)

Bones (as Executor of estate of late Milford Lewis Bones), Bones v Armstrong [2024]

TASSC 52

Supreme Court of Tasmania

Marshall AJ

Probate - the son of a deceased searched for the will and found a will made in 2012, leaving the bulk of the deceased's estate to his three children - the son obtained probate of the 2012 will - after probate was granted, the executor discovered that the deceased had a security box at a bank - the executor discovered a 2021 will executed by the deceased in that box - this will left the bulk of the estate to two of the deceased's children, being the executor and his sister, and appointed the executor and his sister executors - the executor and his sister applied for revocation of the grant of probate of the 2012 will and a grant of probate with respect to the 2021 will - held: the contents of the 2021 will were consistent with conversations the deceased had had with the executor and his sister at about the time that will was made - the deceased did not have any mental health impediments that would prevent him making a valid will - the witnesses to the 2021 will gave evidence that they did witness that will being signed, and as to the demeanour of the deceased at that time - the brother who had been excluded from the 2021 will had filed an affidavit acknowledging service of the application, in which he was named defendant - however, he had not filed a notice of appearance or an affidavit addressing the merits of the matter - he had also been sent a notice of hearing, but did not attend the hearing - the Court presumed that he did not wish to add to the factual material before the Court - it was appropriate to make the orders sought - probate of 2012 will revoked, and grant of probate made to the executor of the 2012 will and his sister in respect of the 2021 will.

[Bones \(as Executor of estate of late Milford Lewis Bones\), Bones](#)

[From Benchmark Friday, 25 October 2024]

Benchmark

INTERNATIONAL LAW

Executive Summary and (One Minute Read)

In the Matter of McAleenon (UKSC) - Supreme Court held that an individual had the right to compel judicial review of a government decision relating to landfill contamination even though a private right of action against the alleged polluter may have been available

Summaries With Link (Five Minute Read)

In the Matter of McAleenon [2024] UKSC 31

Supreme Court of the United Kingdom

Lord Lloyd-Jones, Lord Briggs, Lord Sales, Lord Stephens, & Lady Simler

Noeleen McAleenon resided near a landfill that was operated by a private firm. Ms McAleenon maintained that the Lisburn and Castlereagh Council had regulatory authority concerning nuisances like the landfill. She sought judicial review of how the Council had dealt with complaints about the landfill. The government argued that she could not seek judicial review of the Council's actions because she had available to her a private right of action against the alleged polluter. The Court of Appeal sustained this objection and held that there were suitable alternative remedies available to Ms McAleenon and that judicial review was not available to her. The Supreme Court reversed and found that the existence of a private claim in nuisance against the alleged polluter did not constitute a suitable alternative remedy to judicial review of the Council's conduct. The Court stated that the fact that different proceedings could have been brought against another party did not mean that there existed a suitable alternative so as to preclude judicial review. The Court further stated that it is not the courts' role to say that a claimant should have sued someone other than the branch of government whose actions were being questioned.

[In the Matter of McAleenon](#)

Poem for Friday

Life

By Charlotte Brontë (1816-1855)

LIFE, believe, is not a dream
So dark as sages say;
Oft a little morning rain
Foretells a pleasant day.
Sometimes there are clouds of gloom,
But these are transient all;
If the shower will make the roses bloom,
O why lament its fall ?

Rapidly, merrily,
Life's sunny hours flit by,
Gratefully, cheerily,
Enjoy them as they fly !

What though Death at times steps in
And calls our Best away ?
What though sorrow seems to win,
O'er hope, a heavy sway ?
Yet hope again elastic springs,
Unconquered, though she fell;
Still buoyant are her golden wings,
Still strong to bear us well.
Manfully, fearlessly,
The day of trial bear,
For gloriously, victoriously,
Can courage quell despair !

Charlotte Brontë was born on 21 April 1816, in West Yorkshire, UK. She was an English poet and novelist. She was the eldest of the three Brontë sisters. Her siblings were Emily Brontë, Anne Brontë, Branwell Brontë, Elizabeth Brontë, and Maria Brontë. She had a year of formal education at Clergy Daughters' School at Cowan Bridge. Thereafter she and her siblings learned at home, from each other and their parents, and aunt Elizabeth Branwell who lived with the family. She is famous for her novel *Jane Eyre*, which she first published under the pseudonym Currer Bell in 1847. She was married to Arthur Bell Nicholls from 1854 to 1855, for the last 9 months of her life. Nicholls had been the curate

to Charlotte's father, Patrick Brontë, an Anglican clergyman. Charlotte Brontë died on 31 March 1855 in Haworth, England.

Reading by **Patricia Conolly**. With seven decades experience as a professional actress in three continents, Patricia Conolly has credits from most of the western world's leading theatrical centres. She has worked extensively in her native Australia, in London's West End, at The Royal Shakespeare Company, on Broadway, off Broadway, and widely in the USA and Canada. Her professional life includes noted productions with some of the greatest names in English speaking theatre, a partial list would include: Sir Peter Hall, Peter Brook, Sir Laurence Olivier, Dame Maggie Smith, Rex Harrison, Dame Judi Dench, Tennessee Williams, Lauren Bacall, Rosemary Harris, Tony Randall, Marthe Keller, Wal Cherry, Alan Seymour, and Michael Blakemore.

She has played some 16 Shakespearean leading roles, including both Merry Wives, both Viola and Olivia, Regan (with Sir Peter Ustinov as Lear), and The Fool (with Hal Holbrook as Lear), a partial list of other classical work includes: various works of Moliere, Sheridan, Congreve, Farquar, Ibsen, and Shaw, as well as roles such as, Jocasta in Oedipus, The Princess of France in Love's Labour's Lost, and Yelena in Uncle Vanya (directed by Sir Tyrone Guthrie), not to mention three Blanche du Bois and one Stella in A Streetcar Named Desire.

Patricia has also made a significant contribution as a guest speaker, teacher and director, she has taught at The Julliard School of the Arts, Boston University, Florida Atlantic University, The North Carolina School of the Arts, University of Southern California, University of San Diego, and been a guest speaker at NIDA, and the Delaware MFA program.

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