

Book Review

Contempt by David Rolph (2023) Federation Press, 960 pp,
ISBN 9781760024659

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JUDGE: Are you trying to show contempt for this court?

MAE WEST: No, I'm doin' my best to hide it.¹

Proceedings for contempt of court are not a common event in Australia. Perhaps that is why the stories of mistakes made during contempt proceedings are legion. There has been uncertainty about whether to proceed, when to proceed and how to proceed. Those uncertainties have been laid to rest by this monumental work by Professor David Rolph.² His scholarship and the ease with which he exposes and explains the law of contempt make this a singular work — it is an essential resource for anyone wanting (or having) to dip their toes into the formerly turbid waters of contempt.

The book starts, sensibly enough, with an introduction to the law of contempt, an examination of the nature of contempt, and the sources of jurisdiction for its use. As the author observes, the jurisdiction to deal with contempt of court has existed from time immemorial. It is not surprising, then, that the jurisdiction has not developed in a single, simple line, but has exhibited all the hallmarks of common law doctrines that develop over time. While common lawyers perceive a certain charm in that form of evolution, it can present difficulties for those seeking to find answers to particular problems.

One of the book's major achievements is the creation of a sensible and manageable classification of the various types of contempt that can arise. Those who have previously ventured into this field know that there has been a lack of structure, which has led to the types of criticism seen in the Victorian Law Reform Commission's 2019 Consultation Paper on this topic.³

Until the publication of Rolph's book it was not unfair to describe the treatment of the law in this area as amorphous and inconsistent. While there may still be valid complaints about the nature of the process and its application, the detailed structure advanced by the author, together with the clear-headed examination under each division now provides anyone with a logical path for consideration.

Please cite this book review as:

Glenn Martin, 'Book Review: *Contempt* by David Rolph' (2025) 47 *Sydney Law Review* 21385: 1–2
<<https://doi.org/10.30722/slr.21385>>.

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¹ *My Little Chickadee* (Universal Studios, 1940).

² David Rolph, *Contempt* (Federation Press, 2023) ('*Rolph on Contempt*').

³ Victorian Law Reform Commission, *Contempt of Court* (Consultation Paper, May 2019).

The author provides detailed consideration of:

- the distinction between civil and criminal contempt;
- sub judice contempt;
- scandalising the court;
- disclosure of jury deliberations;
- interference with the administration of justice;
- contempt in the face of the court;
- disclosure of journalists' sources;
- civil contempt;
- frustrating/subverting court orders;
- procedure; and
- penalties and relief.

While the mere size of the book may appear daunting, there is no reason to be concerned. The information and examination of principle is conveyed in bite-sized chunks that are accessible to both the seasoned practitioner and to those approaching (with some trepidation) this area. The value of the work is magnified by a comprehensive index and a detailed table of contents. Each chapter is preceded by its own list of contents that allows the reader to easily examine the deeper levels of this hierarchically organised treatment of the law.

Apart from the careful categorisation of the law referred to above, Rolph also uncovers the sometimes-minor differences in the various courts in the Australian federation when dealing with contempt. An invaluable chapter (which is, naturally, not available in the standard English texts) contains consideration of contempt of other decision-making bodies such as Royal Commissions, administrative and other tribunals, and Coroners Courts.

It should not surprise anyone that *Rolph on Contempt* has already been cited several times — in the High Court of Australia, the Supreme Courts of various States and the Federal Court of Australia. That is explained by the fact that the book is designed to be used by practitioners and judges alike. It deals with the practical legal difficulties that arise and it does so from the point of view of someone who is seeking a solution. It is written by someone who fully understands that contempt proceedings can arise unexpectedly, that they can be impressed with the need for expedition, and that the path to resolution of a contempt proceeding is strewn with hazards. Rolph shows the reader where the hazards are and how they can be met. It is an Australian classic.