



Magistrates' Court
Victoria

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SUBJECT MATTER

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- Claim for damages** – injuries received when person stepped into an uncovered inspection shaft – on footpath outside business premises – owner of premises found to be liable – magistrate in error: 41/01
- Estate agent** – claim for commission – no reference in claim to equitable estoppel – such claim made at hearing – no adjournment sought – claim for equitable estoppel upheld – no error: 39/01
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- Drink-driving

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- **Certificate of breath analysis produced by breath analysing instrument** – error in certificate – wrong date of birth – amended by operator – certificate admitted into evidence – no error by magistrate: 28/01 [Upheld on appeal: 29/01]
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- **Witness summons to produce documents** – sought in relation to breath analysing instrument – production of documents opposed – no legitimate forensic purpose existed – “on the cards” test – magistrate not in error in refusing to order production and setting sub-poena aside: 26/01

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- **Hit-run accident** – owner of vehicle interviewed – told incorrect time of accident – refusal to disclose identity of driver – owner convicted – no error: 31/01
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- **Speeding** – failure to specify defendant driving in a speed zone – description of offence – finding of charge proved – magistrate in error: 17/01
- **Speeding** – informant's statement tendered by consent – omission to state that signs complied with road rules – permission granted to re-open – magistrate not in error: 30/01

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SUBJECT MATTER

PRACTICE AND PROCEDURE

Application for compulsory procedure – person not given notice of application – person not present when order for compulsory procedure made – denial of natural justice: 47/01

Application to amend place of alleged offence – whether place of offence an essential ingredient in offence – magistrate not in error in making amendment: 15/01

Speeding and no “P” plates – charge alleging offences against repealed subordinate legislation – offences in similar terms to repealed ones – charges amended by magistrate – magistrate in error: 16/01

Speeding – failure to specify defendant driving in a speed zone – description of offence – finding of charge proved – magistrate in error: 17/01

Speeding – informant’s statement tendered by consent – omission to state that signs complied with road rules – permission granted to re-open – magistrate not in error: 30/01

Suppression order – blanket order made – details of accused already a matter of public record: 45/01

Witness refusing to answer question – on grounds of self-incrimination – some previous answers given of an incriminating nature – privilege against self-incrimination waived: 32/01

Witness summons to produce documents – sought in relation to breath analysing instrument
– production of documents opposed – no legitimate forensic purpose existed – “on the cards” test
– magistrate not in error in refusing to order production and setting sub-poena aside: 26/01

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Traffic infringement notice issued for drink/driving offence – effect of notice – “conviction” – notice is a statutory conviction – to be treated as a prior conviction: 25/01

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Drugs of dependence – reference in Act to two types of drugs said to be the same – provisions introduced by amendment at different times – later enactment repeals the earlier one by implication: 46/01

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A-G for NSW v Time Inc Magazine Co Pty Ltd, unrep, 15 Sept, 1994, applied: 45/01
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