

DEFENDANT'S CHARACTER

s.110 UEA



Introduction

- The common law traditionally allowed character evidence in the form of reputation, and then evidence of disposition more recently.
- s.110 allows evidence of character unfettered by tendency, opinion, credibility or hearsay constraints.
- Rebuttal evidence is also allowed.
- Significantly, the defendant may put character in issue either generally or in a particular respect.
- If character is only adduced in a certain respect, it may only be rebutted in that respect.
- The defence may seek an advanced ruling under s.192A.

Adducing Evidence

- s.110 enables the evidence to be adduced in either examination in chief or in cross examination.
- A defendant's answers to cross examination by a prosecutor may or may not raise character: *R v Gabriel* (1997) 76 FCR 279.
- The usual caveat on calling a defendant applies! See *R v Skaf, Ghanem and Hajeid* [2004] NSW CCA 74.

CHARACTER
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Divisibility of Character

- s.110(1) enables the defendant to prove character either generally or in a particular respect.
- Rebuttal evidence must mirror this.
- Leave must be sought to cross examine in rebuttal: s.112.
- Again it is important that the general parameters for leave are set out by the Court.

