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(2016) 90 ALJ [page]

The Australian Law Journal is a refereed journal.

Australian Law Journal Reports

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90 ALJR [page]

THE AUSTRALIAN LAW JOURNAL

Volume 90, Number 2

February 2016

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LORD DENNING: HIS JUDICIAL PHILOSOPHY

Justice James Douglas

Lord Denning (1899-1999) was the most famous English judge of the 20th century, largely because of his willingness to reconsider and reform legal principle. He was also unique in identifying and expressing his judicial philosophy, namely: (i) Let justice be done; (ii) Freedom under the law; and (iii) Put your trust in God. The author briefly details Lord Denning's upbringing and early career and examines how his judicial philosophy played out in certain fields of law, with an emphasis on associated developments in Australia. The author concludes with some observations about his Achilles' heel as a judge: too great a readiness to confuse personal prejudice with his notions of justice.	107
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AUSTRALIA IS DIFFERENT: RESTITUTION AND THE AUSTRALIAN CONSTITUTION

Brian Mason

Restitution in Australia is different. This is usually explained by the limited, conceptual role unjust enrichment performs in Australian law. This article explores a further explanation: the judiciary's functions and responsibilities in Australia's constitutional framework. Using the High Court's decision in <i>New South Wales v Kable</i> (2013) 252 CLR 118 as the prism for its analysis, this article examines how this framework can influence the development and application of two restitutionary principles in Australian law. The first is the principle allowing ultimately successful litigants to recover amounts they have paid under earlier judgments which are subsequently set aside, together with interest. This principle must be tailored to suit the constitutional explanation that a superior court's orders remain enforceable until overturned on appeal. The second is the principle permitting taxpayers to recover any overpaid tax, together with interest, which is unnecessary given the Australian superior courts' constitutionally enshrined judicial review jurisdiction.	120
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