Australian Law Journal

The mode of citation of this volume is
(2006) 80 ALJ [page]

The Australian Law Journal is a refereed journal.

Australian Law Journal Reports

The mode of citation of this volume is

80 ALJR [page]

THE AUSTRALIAN LAW JOURNAL

Volume 80, Number 12

December 2006

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MEETING THE CHALLENGE OF TERRORISM: THE EXPERIENCE OF ENGLISH AND OTHER COURTS

Rt Hon Lady Justice Mary Arden

This article deals with the legal issues that arise from terrorism in relation to counter-terrorist legislation across the world by examining major developments in the jurisprudence, including examples from, the European Court of Human Rights, the United Kingdom, the United States, South Africa, India, Canada and Australia. Through these cases, the path from deportation to detention, to torture, control orders and finally, special trial procedures is examined. The article considers how the law must adapt to the new challenges it now faces; how courts, while being the guardians of individual rights, have to also take into account the seriousness of the terrorist threat. The article then draws some conclusions regarding lessons for the future, questioning whether the incomplete security which counter-terrorist measures provide, justifies their effect on the liberty of the individual and of the need to hold on to the fundamental values of a plural, democratic society, subject to the rule of law, in order to defeat terrorism. 818

RETHINKING FEDERAL SENTENCING AIMS AND OPTIONS FOR TERRORISTS

Hon Justice Tim Carmody

This article looks at the constitutionality (not the morality) of incapacitating terrorists by confining them for as long as they represent an assessed risk to national security or public safety. 839

STRUCTURING PURPOSIVE STATUTORY INTERPRETATION: AN AMERICAN PERSPECTIVE

Philip P Frickey

Sections 15AA and 15AB of the Acts Interpretation Act 1901 (Cth), and State analogues, provide that statutory interpretation in Australia is guided by considering statutory purpose. Professors Hart and Sacks developed the most thoughtful approach to purposive statutory interpretation in the United States. Their model sheds light on a number of important questions concerning how the Australian purposive approach might best be implemented. 849

SHOULD THE NEW SOUTH WALES COURTS MOVE TO A SINGLE LINE BUDGET?

Justin Gleeson SC

A question which deserves some attention is whether courts in New South Wales should move to a single line budget, whether on its own or as part of a more radical reorganisation of the administration of the courts and associated activities. This article considers the case for and against and concludes with some suggestion for further discussion. The Council of the New South Wales Bar Association has recently endorsed the issue as an important public policy question for public discussion. 862

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