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ARTICLES**D’ORTA-EKENAIKE v VICTORIA LEGAL AID: A CONTROVERSY QUELLED****G P Craddock**

The immunity of an advocate from suit has long been controversial. The House of Lords abolished the immunity in *Arthur JS Hall & Co v Simons* [2002] 1 AC 615. The High Court of Australia affirmed the immunity in *D’Orta-Ekenaike v Victoria Legal Aid* (2005) 79 ALJR 755. That judgment re-focused the analysis away from the position of the advocate and upon the place of the judicial system in the governance of the community and the signal importance of finality of judgments as the central tenet of the judicial system. The judgment provides insights into the role of the judiciary as the third branch of government, and provides a clear template against which might be resolved outstanding questions concerning the application of the immunity.

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THEFT PRINCIPLE IN PRIVATE LAW**John Tarrant**

If money or goods were stolen the traditional common law remedy was damages for the value of the stolen property. Traditionally no equitable remedy was available in cases of stolen money or goods. This position changed in Australia when the High Court held in *Black v S Freedman & Co Ltd* (1910) 12 CLR 105 that stolen money is trust money in the hands of the thief. This significant development introduced an equitable response to the tort of conversion which Einstein J described as the “theft principle” in *Cashflow Finance Pty Ltd (In liq) v Westpac Banking Corporation* [1999] NSWSC 671. The author explores the development of the theft principle in Australian private law and explains the complexities that can arise from the application of the theft principle.

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 - 5. Austin, n 4, p 56.

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 - 7. Sheehy et al, n 6 at 221.

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