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CURRENT ISSUES – Editor: Mr Justice P W Young AO

Criticisms of the judiciary	847
Long civil trials	847
Cross-examination in sexual cases	848
Briginshaw v Briginshaw	848
Privacy.....	848
Suspects.....	849
Conferences.....	849
Top Australian law books.....	850
The ALJ in 2008.....	850

CONVEYANCING AND PROPERTY – Editor: Peter Butt

Writs in the High court: Black v Garnock	851
Black v Garnock: A note on the High court's decision	851
Black v Garnock: A practitioner's perspective.....	852
If you play with fire	853

PEOPLE IN THE LAW – Editor: GEOFF LINDDSAY SC

Justice I D F Callinan AC (Cth)	855
Justice S M Kiefel (Cth).....	856
Justice J H Byrne RFD (Qld).....	857
Justice A M Daubney (Qld).....	857
Justice J W B Helman (Qld).....	858
Justice G C Martin (Qld)	859
Justice J D M Muir (Qld).....	860
Justice Ross Robson (Vic).....	860

RECENT CASES – Editor: Mr Justice P W Young AO

Subpoenas.....	862
Corporations: When special resolution required	862
Contract: Offer and acceptance	862
Company law: Director preparing to set up competing business.....	863
Confidential information	863
Breach of fiduciary duty: Contributory negligence – Set-offs.....	864
Fixtures or chattels: Demountable houses	864
Corporations: Oppression.....	865

ARTICLES

THE COURTS, TAX AND COMMERCIAL LITIGATION

Justice Ian Gzell

This article addresses the question whether it is appropriate for courts to make adjustments to awards of damages in commercial litigation to take account of tax imposts. There are a number of ways in which taxation considerations can impinge upon a judgment and the courts have taken divergent approaches to this issue. Focusing on the impact of income tax, capital gains tax, and goods and services tax, the article discusses the divergent approaches and offers the author's solution to a vexing and unsettled area of law. 866

CAVEATS AND UNIT TRUSTS

D K L Raphael

In this day and age, the question of whether or not a unit holder in what is a standard form of unit trust has an interest able to sustain lodgment of a caveat, has attracted much interest among legal practitioners. In 2006, the Chief Justice of Victoria, sitting as a first instance judge, determined that a unit holder in a unit trust, the form of which was both standard and current, had a caveatable interest in land of which the trustee of the unit trust was the legal owner. This article examines and, indeed, questions the accuracy of her Honour's conclusions. 881

SIR DOUGLAS MENZIES: A CENTENARY TRIBUTE

Mark McGinness

Marking the centenary of his birth, this article recalls the life of Sir Douglas Menzies, a member of the High Court from 1958 until his sudden death in November 1974. He was

known as “Prime Minister’s Cousin” (something admittedly of which he was proud) but a more fitting soubriquet was “the laughing cavalier of the High Court”. He was known as a dazzling advocate; one of the few to match his friend Garfield Barwick, and his appointment to the High Court was entirely without controversy, despite his cousinhood. In joining the High Court at its most brilliant, Menzies J served with distinction but did not dazzle. And yet his joie de vivre and esprit de coeur made a valuable contribution to the life of the Court. 889

EQUINE INFLUENZA: THE LEGAL FRAMEWORK OF QUARANTINE

Judy Bourke

The notorious 2007 Equine Influenza outbreak has impacted on the horse racing and breeding industry and many others involved with horses. The regulatory structure of Australia’s quarantine and animal disease control regimes has been highlighted. This article reviews the national, State and industry legal framework, and discusses the legal and thoroughbred industry regulatory measures implemented in response to the outbreak. 894

The Australian Law Journal Reports

HIGH COURT REPORTS – Staff of Lawbook Co

DECISIONS RECEIVED IN AUGUST/SEPTEMBER 2007

Clarke v The Queen (<i>Criminal Law</i>) ([2007] HCA 39)	1688
East Australian Pipeline Pty Ltd v Australian Competition and Consumer Commission (<i>Administrative Law; Energy and Natural Resources; Trade and Commerce</i>) ([2007] HCA 44)	1868
Hill v The Queen (<i>Criminal Law</i>) ([2007] HCA 39)	1688
Marks v The Queen (<i>Criminal Law</i>) ([2007] HCA 39)	1688
Roach v Electoral Commissioner (<i>Constitutional Law (Cth); Statutes</i>) ([2007] HCA 43) .	1830
Roads and Traffic Authority (NSW) v Dederer (<i>Appeal; Costs; Highways; Torts</i>) ([2007] HCA 42)	1773
Tofilau v The Queen (<i>Criminal Law</i>) ([2007] HCA 39)	1688