Australian Law Journal

GENERAL EDITOR

Mr Justice P W Young AO

PRODUCTION EDITOR
Cheryle King

ASSISTANT GENERAL EDITOR

Angelina Gomez

Barrister-at-Law

The mode of citation of this volume is (2010) 84 ALJ [page]

The Australian Law Journal is a refereed journal.

Australian Law Journal Reports

PRODUCTION EDITOR
Carolyn May

CASE REPORTERS

John Carroll

Adam Weir

The mode of citation of this volume is: 84 ALJR [page]

(2010) 84 ALJ 661 661

THE AUSTRALIAN LAW JOURNAL

Volume 84, Number 10

October 2010

CURRENT ISSUES – Editor: Mr Justice P W Young AO	
The Lehane Lecture	667
Law reporting	667
Non fiduciary trust administrators	668
University law reviews	668
Service by facebook	669
Personalia Editor	669
Norm & Narelle (No 6)	669
Apologies	670
CONVEYANCING AND PROPERTY – Editor: Peter Butt	
Validity of enduring powers of attorney	671
Wrong answers to requisitions give right to rescind	672
What is a "residential tenancy"?	673
Better equity or worse equity?	674
RECENT CASES – Editor: Mr Justice P W Young AO	
Statutory interpretation	676
Harassment	677
Trusts: Action by beneficiary against third party	677
Prisoners' rights on strike by guards	678
Statutory wills	678
Crime: Forfeiture of criminal's property	679
Contempt of court: Videotaping criminal trial	679
ARTICLES	
MARITIME LAW: THE NATURE AND IMPORTANCE OF ITS INTERNATIONAL CHARACTER	
James Allsop	
This article considers the unique international character of maritime law – not merely because of regard to be paid to the law of other countries, but as part of the recognition of the existences of a coherent body of international principle, the general maritime law, from which particular municipal laws are created and adapted. The article is in substance the annual William Tetley Lecture at Tulane University in Louisana delivered in April 2009.	681
4007	001

ARBITRABILITY AND THE IMPACT OF FRAUD OR CORRUPTION ON INTERNATIONAL ARBITRATION

Jeremy	Sher
--------	------

Jeremy Sner	
Arbitrators and national courts are increasingly grappling with how to reconcile privately concluded dispute resolution agreements with the public interest in preventing and punishing fraud or corruption. What has become evident in English and American courts is a trend towards permitting the arbitration of classes of disputes which were previously inarbitrable including transactions where there are allegations of fraud or corruption. In Australia, the position is less certain.	702
EVALUATING AUSTRALIA'S RESPONSE TO ALL FORMS OF TRAFFICKING: TOWARDS RIGHTS-CENTERED REFORM	
Frances Simmons and Jennifer Burn	
This article assesses Australia's response to human trafficking in light of the growing focus on trafficking outside the commercial sex industry. The authors propose updating Australia's response to trafficking to fully reflect Australia's international obligations to address trafficking, forced labour, and practices similar to slavery such as forced marriage.	712
	/12
BOOK REVIEW – Editor: Angelina Gomez	
Amending Final Judgments and Orders, by John Tarrant	731

The Australian Law Journal Reports

HIGH COURT REPORTS – Staff of Thomson Reuters

DECISIONS RECEIVED IN AUGUST/SEPTEMBER 2010

Cadia Holdings Pty Ltd v New South Wales (Constitutional Law; Energy and Resources;	
Statutes) ([2010] HCA 27)	588
Public Trustee (Qld) v Fortress Credit Corporation (Aus) 11 Pty Ltd (Corporations)	
([2010] HCA 29)	628
Spencer v Commonwealth (Federal Court of Australia) ([2010] HCA 28)	612

Submission requirements

All contributions to the journal are welcome and should be emailed to the Production Editor, *Australian Law Journal*, at <u>LTA.alj@thomsonreuters.com</u> for forwarding to the Editor.

Licences

It is a condition of publication in the journal that contributors complete a licence agreement. Licence agreements can be
downloaded at http://www.thomsonreuters.com.au/support/as_contributors.asp and emailed with the submission or mailed
separately to the Production Editor, https://www.thomsonreuters.com.au/support/as_contributors.asp and emailed with the submission or mailed
separately to the Production Editor, https://www.thomsonreuters.com.au/support/as_contributors.asp and emailed with the submission or mailed
separately to the Production Editor, https://www.thomsonreuters.com.au/support/as_contributors.asp and emailed with the submission or mailed
separately to the Production Editor, https://www.thomsonreuters.com.au/support/as_contributors.asp and emailed with the submission or mailed
separately to the Production Editor, https://www.thomsonreuters.com.au/support/as_contributors.asp

Letters to the Editor

By submitting a letter to the Editor of this journal for publication, you agree that Thomson Reuters, trading as Lawbook
Co, may edit and has the right to, and may license third parties to, reproduce in electronic form and communicate the
letter.

Manuscript

- Manuscript must be original, unpublished work that has not been submitted or accepted for publication elsewhere, including for online publication.
- Personal details (name, qualifications, position) for publication and a delivery address, email address and phone number must be included with the manuscript on a separate page.
- Manuscript must be submitted electronically via email in Microsoft Word format.
- Manuscript should not exceed 10,000 words for articles or 1,500 words for section commentary or book reviews.
- An abstract of 100-150 words must be included at the head of articles.
- Authors are responsible for the accuracy of case names, citations and other references. Proof pages will be emailed to contributors but excessive changes cannot be accommodated.
- Graphics (diagrams and graphs) to be grayscale; in .jpeg format; no more than 12 cm in width; within a box; of high resolution (at least 300 dpi); font is to be Times New Roman, no more than 10pt. The heading for a graphic should be placed outside the box.

Peer review

• This journal complies with the Higher Education Research Data Collection (HERDC) Specifications for peer review. Each article is, prior to acceptance, reviewed in its entirety by a suitably qualified expert who is independent of the author.

Style

- 1. Levels of headings must be clearly indicated (no more than four levels).
- 2. Unpointed style is to be used there are no full stops after any abbreviation or contraction.
- 3. Cases:
 - Where a case is cited in the text, the citation follows immediately after the case name, not as a footnote.
 - Authorised reports must be cited where published, and one other reference can be used in addition.
 - For "at" references use media-neutral paragraph numbers within square brackets whenever available.
 - For international cases best references only should be used.
- 4. Legislation is cited as follows:
 - Trade Practices Act 1974 (Cth), s 51AC (including in full within footnotes).
- 5. Books are cited as follows:
 - Ross D, Ross on Crime (3rd ed, Lawbook Co, Sydney, 2006) pp 100-101.
 - In footnotes do not use ibid or op cit. Repeat author surname and add footnote reference to first mention.
 - ¹ Hayton D, "Unique Rules for the Unique Institution, The Trust" in Degeling S and Edelman J (eds), *Equity in Commercial Law* (Lawbook Co, Sydney, 2005) p 284.
 - ² Hayton, n 1, p 286.
- 6. **Journals** are cited as follows:
 - Kirby M, "The Urgent Need for Forensic Excellence" (2008) 32 Crim LJ 205.
 - In footnotes do not use ibid or op cit. Repeat author surname and add footnote reference to first mention.
 - ³ Trindade R and Smith R, "Modernising Australian Merger Analysis" (2007) 35 ABLR 358.
 - ⁴ Trindade and Smith, n 3 at 358-359.
 - Wherever possible use official journal title abbreviations.
- 7. Internet references are cited as follows:

Ricketson S, *The Law of Intellectual Property: Copyright, Designs and Confidential Information* (Lawbook Co, subscription service) at [16.340], http://www.thomsonreuters.com.au/default.asp viewed 25 June 2007. Underline the URL and include the date the document was viewed.

(2010) 84 ALJ 665 665

SUBSCRIPTION INFORMATION

The Australian Law Journal comprises 12 parts a year.

The Journal is available for subscription via paper and/or online. An online subscription can include access to archived volumes of the Journal dating back to 1927 and has the following benefits: content is fully searchable; PDF versions are provided for convenience; users can subscribe to an RSS feed to be instantly informed of updates.

For further information on how to subscribe:

Visit <u>www.thomsonreuters.com.au</u>
Tel: 1300 304 195
Email: <u>LTA.Service@thomsonreuters.com</u>

Advertising inquiries:

Contact Andrew Parsons on (02) 8587 7462 or email a.parsons@thomsonreuters.com

Editorial inquiries: Tel: (02) 8587 7000

Customer service and sales inquiries:

Tel: 1300 304 195 Fax: 1300 304 196 Web:www.thomsonreuters.com.au Email: LTA.Service@thomsonreuters.com

HEAD OFFICE

100 Harris Street PYRMONT NSW 2009 Tel: (02) 8587 7000 Fax: (02) 8587 7100



© 2010 Thomson Reuters (Professional) Australia Limited ABN 64 058 914 668

Lawbook Co. Published in Sydney

ISSN 0004-9611

Typeset by Thomson Reuters (Professional) Australia Limited, Pyrmont, NSW

Printed by Ligare Pty Ltd, Riverwood, NSW