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# THE AUSTRALIAN LAW JOURNAL

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### THE 2009 W A LEE LECTURE IN EQUITY: THE CONSCIENCE OF EQUITY

**P A Keane**

In the 2008 W A Lee Lecture, Justice Michael Kirby, in his paper “Equity’s Australian Isolationism”, criticised equity jurisprudence in Australia for its failure to follow the Canadian example in unifying the doctrines of equity and the rules of the common law particularly in relation to aspects of the fiduciary obligation and the availability of punitive damages. It is submitted that an appreciation of the fundamental values referred to as the conscience of equity affords good reason to resist the unifying tendencies apparent in the Canadian jurisprudence. ....

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### THE MERCHANT OF VENICE AND THE TRADE PRACTICES ACT

**Hon Peter Heerey QC**

Alone among Shakespeare’s plays, “The Merchant of Venice” takes place in a business setting involving commercial and economic issues like trade, profit, money, interest, credit, risk and globalisation. As often happens, business disputes lead to the courtroom. In the play the portrayal of the twists and turns of litigation and associated negotiations resonate with the experience of lawyers 400 years later. Recent excavations at the Globe Theatre have unearthed the remains of a revised version with a new sub-plot that will intrigue competition lawyers. ....

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### DISPUTE RESOLUTION AND APPLICABLE LAW CLAUSES IN INTERNATIONAL SPORTS ARBITRATION

**Dr Andrew Bell SC**

Choice of law clauses and jurisdiction or arbitration agreements play a critical role in international commerce. They also play an increasingly important role in sporting disputes by reason of the ever-growing internationalisation and commercialisation of sport. The presence of such clauses does not, however, guarantee the elimination of interlocutory or adjectival contests concerning the law which will govern, and the forum or mode of dispute resolution that will apply, to the determination of an international sporting dispute. This article examines standard sports-related choice of law clauses and arbitration agreements, and considers the emerging jurisprudence in this field. ....

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