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## **CURRENT ISSUES – Editor: Mr Justice P W Young AO**

Changing of the guard in the Federal Court .....	287
Neighbouring relations of courts improved .....	287
England, Europe and the common law .....	287
Shared parenting .....	288
Are hate laws one sided? .....	288
New South Wales Court of Appeal web page .....	289
Judges as mediators or arbitrators .....	289
Sentencing .....	290
Norm & Narelle (No 4) .....	290

## **CONVEYANCING AND PROPERTY – Editor: Peter Butt**

Partition preferred to sale .....	292
Rights under easement .....	292
Sale of fixtures, unsevered from the land on which they stand .....	293
The arcane law of deeds .....	294

## **FAMILY LAW – Editor: Anthony Dickey QC**

Reflections on MRR v GR .....	296
Intervention by a third party and simply being heard .....	297

## **RECENT CASES – Editor: Mr Justice P W Young AO**

Trespass to land: Ambit of orders for possession .....	299
“First in, first out”: Does that rule apply to chattel hire? .....	299
Proprietary estoppel: Detriment – Proportionality .....	300
Striking out valid claims .....	301
Deeds: Whether a document is a deed .....	301
Costs: Dishonesty of successful party – Effect .....	301
Proceeds of crime: Preservation of property .....	302
Arbitration: When court should interfere with award for manifest error – Arbitrator’s duty to give reasons .....	302
Damages payable by purchaser over failed contract .....	303
Adverse possession of a river bed .....	305
Injunctions in the family court: Undertakings as to damages and “clean hands” .....	305
Time limits for service of notices .....	306

Implied easement to train dogs .....	306
Damages: Water damage to shop – Shop owner doing work to modernise shop as well as reinstate – How damages assessed .....	307
Statistical evidence as proof .....	308
Supporting State Supreme Courts .....	308

## ARTICLES

### STATE OF THE AUSTRALIAN JUDICATURE

#### Chief Justice R S French

The Australian judiciary today discharges its functions in the community in which there is an increasing tendency to develop national and co-operative approaches to important elements of social and legal infrastructure. Australia has a unified common law which, together with the Constitution, and federal, State and Territorial laws, forms one system of jurisprudence. The Australian judicial system, although federal in form, is national in character. So too, is the legal profession. Moves to a “national judicial framework” and national regulation of the profession must respect the distinctive constitutional character of the courts and the associated requirement for a strong competent, ethical and independent body of lawyers. Moves to enhanced use of court annexed alternative dispute resolution and the development of efficiency measures for courts are positive but should not blur or compromise their distinctive function in Australian society. .... 310

### FISHERIES AND AUTOMATIC FORFEITURE OF VESSELS: DRACONIAN COMMONWEALTH LAWS

#### Michael White and Rosemary Gibson

This article describes the background to the Australian Commonwealth fisheries jurisdiction, the ocean areas over which the Australian Fishing Zone extends and the general regulatory and enforcement powers under the Fisheries Management Act 1991 (Cth). It sets out the extent of the powers granted to enforcement officers and focuses on the provisions dealing with automatic forfeiture of vessels, catch and equipment as provided in the Act. It analyses the forfeiture provisions and the major cases dealing with them. The article sets out a critical analysis of these provisions and cases and calls for reform of the present fisheries law about forfeiture as being unjust and contrary to the established principles of the administration of law. In particular the article calls for repeal of the automatic forfeiture provisions in the Fisheries Management Act and, if not repealed, that the decision in *Olbers Co Ltd v Commonwealth* [No 4] (2004) 136 FCR 67; 205 ALR 432 be overturned or not followed as appropriate. .... 319

## BOOK REVIEWS

<i>The Law Affecting the Valuation of Land</i> by Alan Hyam .....	345
<i>Documentary Evidence – The Laws of Australia</i> by Roger Brown .....	345
<i>Pixie</i> by Andrea Mohr .....	346
<i>The Tort of Conversion</i> by Sarah Green and John Randall QC .....	346
<i>Nygh’s Conflict of Laws in Australia</i> by Martin Davies, Andrew Bell and Paul Brereton .	347

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# The Australian Law Journal Reports

## HIGH COURT REPORTS – Staff of Thomson Reuters

### DECISIONS RECEIVED IN MARCH/APRIL 2010

Bamford v Federal Commissioner of Taxation ( <i>Taxes and Duties</i> ) ([2010] HCA 10) .....	266
Berenguel v Minister for Immigration and Citizenship ( <i>Citizenship and Migration</i> ) ([2010] HCA 8) .....	251
Lehman Bros Asia Holdings Ltd (In liq) v City of Swan ( <i>Corporations</i> ) ([2010] HCA 11)	275
Lehman Bros Holdings Inc v City of Swan ( <i>Corporations</i> ) ([2010] HCA 11) .....	275
Stewart v QBE Insurance (Australia) Ltd ( <i>Insurance; Workers Compensation</i> ) ([2010] HCA 9) .....	257
Taxation, Federal Commissioner of v Bamford ( <i>Taxes and Duties</i> ) ([2010] HCA 10) .....	266
Wallaby Grip Ltd v QBE Insurance (Australia) Ltd ( <i>Insurance; Workers Compensation</i> ) ([2010] HCA 9) .....	257

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