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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the article calls for repeal of the automatic forfeiture provisions in the Fisheries Management Act and, if not repealed, that the decision in *Olbers Co Ltd v Commonwealth* [No 4] (2004) 136 FCR 67; 205 ALR 432 be overturned or not followed as appropriate. 319

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