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## **CURRENT ISSUES – Editor: Justice François Kunc**

Flood and Fire and Famine ..... 167

**LETTER TO THE EDITOR** ..... 171

## **CONVEYANCING AND PROPERTY – Editors: Robert Angyal SC and Brendan Edgeworth**

Electronic Conveyancing in Australia: Recent Developments ..... 172

## **FAMILY LAW – Editor: Richard Ingleby**

Case Management: Never Mind the Quality, Feel the Width? ..... 179

## **CLASS ACTIONS – Editor: Justice Michael B J Lee**

High Court Says CF-No. Sort of ..... 182

## ARTICLES

### EQUITY AND THE MODERN FORFEITURE RULE

#### **Samantha Hepburn**

The forfeiture rule is a private law response to the fundamental public policy principle that a killing should not generate a gain for the perpetrator. In its early stages, the rule applied automatically to the perpetrator of any killing and no differentiation was drawn between murder and manslaughter. Today, courts and the legislature have increasingly accepted that the context of a killing makes it difficult, unfair and often disproportionate to apply a presumptive rule. This article argues that in those states where legislative change has not been implemented, the suitability of the forfeiture rule to a manslaughter killing should be determined in the equitable jurisdiction of a civil court. The test in those states should be whether it would be contrary to the conscience of equity to allow a perpetrator to make a property gain. Equity is jurisdictionally equipped to embrace a multi-layered evaluation of the purpose and utility of the forfeiture rule and such an assessment is necessary where the moral culpability of a perpetrator is diminished. .... 186

SHINING A LIGHT ON THE DARK CORNERS OF PHILANTHROPY: THE NEXT STEP IN THE ACNC REGULATION PROJECT

**Amanda R Lekamge**

As the first five years of the Australian Charities and Not-for-profits Commission legislation has come to an end thereby triggering its review, this article explores the different approaches that can be taken to improve the transparency and the public accountability of the charities in Australia. This article assesses the effectiveness of different approaches that can be taken including the current regime, self-regulation, co-regulation by the sector and the State and direct accountability by the public and potential donors themselves. The article concludes that in order for the sector to improve transparency and accountability, the government and the sector must be prepared to embrace new technology and to work together in a meaningful and collaborative manner. .... 202

CLIMATE ACTIVISM AND THE EXTRAORDINARY EMERGENCY DEFENCE

**Dr Nicole Rogers**

Climate activists have attempted to raise the defence of necessity or its statutory equivalent in their trials for over a decade. In Queensland, the codified defence is framed within the context of a sudden or extraordinary emergency. The first attempt by a climate activist to invoke the extraordinary emergency defence in Queensland occurred in May 2019, following a deluge of official declarations of climate emergency by governments at all levels and by institutions. Although this attempt failed, two climate activists will again raise the defence at their trial in March 2020. In this article, I explore the parameters of the defence, the political context in which it is invoked, and the vexed question of what constitutes reasonable conduct on the part of individuals in the absence of an effective, concerted, global response to the climate emergency. .... 217

**OBITUARY – Ivan Anthony Shearer** ..... 230

# Australian Law Journal Reports

## HIGH COURT REPORTS – Staff of Thomson Reuters

### DECISIONS RECEIVED IN FEBRUARY 2020

Customs, Comptroller-General v Pharm-a-Care Laboratories Pty Ltd ( <i>Statutes; Taxes and Duties</i> ) ([2020] HCA 2) .....	182
Grech v The Queen ( <i>Criminal Law</i> ) ([2020] HCA 1) .....	168
Kadir v The Queen ( <i>Criminal Law</i> ) ([2020] HCA 1) .....	168