CURRENT ISSUES – Editor: Acting Justice Peter W Young AO
Slow news month .......................................................... 447
The Eastman case ........................................................... 447
Remember the basic principles ........................................ 447
Surveys ........................................................................... 447
Driving licences .............................................................. 448
An acting judge considers modern litigation .................... 448
Judicial comity .................................................................. 449
Who’s out of touch now? .................................................. 449
What is news? ................................................................. 449
Judges’ notebooks ........................................................... 450
Resignation of Assistant General Editor ............................ 450

LETTER TO THE EDITOR ......................................................... 451

CONVEYANCING AND PROPERTY – Editor: Peter Butt
Native title and priorities: Western Australia v Brown ............... 452
Of moves and counter-moves: The modern law of notices to complete 453
More moves and counter-moves .......................................... 455
Severance of joint tenancy .................................................. 456
Tenant entitled to late exercise of option to renew ................. 456
Registrar’s power to correct errors in the register – A new beginning? 458

FAMILY LAW – Editor: Anthony Dickey QC
May a lawyer act for spouse or lover? ..................................... 460
Declaration of property interests of parties to a de facto relationship 461

PERSONALIA – Editor: Sienna Merope
Australian Capital Territory
Chief Justice Terence Higgins AO ........................................ 463
Chief Justice Helen Murrell .................................................. 463

INTERNATIONAL FOCUS – Editor: Ryszard Piotrowicz
A dispute about a dispute: Watergate by Lake Burley Griffin? ....................... 465
COMPETITION AND CONSUMER LAW – Editor: Robert Baxt AO

The Harper “root and branch” review: A possible new way forward for the clearance of anti-competitive mergers? ................................................................. 469

RECENT CASES – Editor: Acting Justice Peter W Young AO

Evidence by telephone: Whether unfair ............................................................... 472
Donatio Mortis Causa ....................................................................................... 472
Destruction of foreign fishing boat: Whether justified – Consequences ............... 473
Limitation of action: What is a fraudulent breach of trust? ........................................ 474
Conveyancing: Essentiality of time ..................................................................... 474
Administrative law: Revocation of decisions ......................................................... 475
Costs: Right of solicitors to be paid ..................................................................... 475

ARTICLES

GAINING PUBLIC CONFIDENCE IN THE JUDICIARY: SIR WILLIAM PORTUS CULLEN, CHIEF JUSTICE OF NEW SOUTH WALES, 1910-1925

Tony Cunneen

Sir William Portus Cullen was Chief Justice of New South Wales between 1910 and 1925. He was the first Australian born Chief Justice wholly educated in Australia. His career covered academic, political and legal realms. He was involved in the establishment of the Sydney University Law School. He campaigned for the Federation of Australia. He supported the admission of women as lawyers. His extended term as Acting Governor of New South Wales coincided with one of the worst periods experienced by Australians in the First World War. The sense of public duty he inherited from his family was fostered by his educational experiences, producing a lawyer of the highest calibre, with a powerful social conscience, actively involved in shaping the character of the modern Australian legal profession. ................................................................................................. 477

THE NEGATION OF VENTING IN AUSTRALIAN SENTENCING: DENOUNCING DENUNCIATION AND RETRIBUTION

Professor Mirko Bagaric

Sentencing in Australia has been criticised for being too indeterminate and unpredictable. This is attributable in large part to the number of discrete sentencing objectives which, at times, overlap and at other times conflict. Moreover, there is no clear ranking of the objectives, meaning that sentencing courts have a considerable degree of latitude in imposing a sentence. The key sentencing aims are community protection, general deterrence, specific deterrence, rehabilitation, denunciation and retribution. Sentencing would be simplified and, in all likelihood, more consistent if these objectives were prioritised or reduced. This article argues that two of the objectives are superfluous to a properly constructed system of sentencing. In pragmatic terms, the main imperative of sentencing is to impose proportionate sentences: broadly, “the punishment should fit the crime”. If this goal is satisfied, the objectives of denunciation and retribution are obsolete. There is no residual meaning (or purpose) to denunciation and retribution in the sentencing sense beyond the need to ensure that proportionate penalties are set. The need for retribution or denunciation can never justify the imposition of a sanction which is
disproportionate to the severity of the crime. It follows, therefore, that denunciation and retribution should be abolished as sentencing objectives. ................................................... 502

OBITUARY
Kevin Maurice Waller ........................................................................................................ 520

The Australian Law Journal Reports
HIGH COURT REPORTS – Staff of Thomson Reuters

DECISIONS RECEIVED IN MAY/JUNE 2014

Do Young Lee v The Queen (Criminal Law) ([2014] HCA 20) ........................................... 656
Howard v Federal Commissioner of Taxation (Corporations; Equity; Taxation) ([2014] HCA 21) ................................................................. 667
Plaintiff S156/2013 v Minister for Immigration and Border Protection (Citizenship and Migration; Constitutional Law; High Court and Federal Court) ([2014] HCA 22) . 690
Seong Won Lee v The Queen (Criminal Law) ([2014] HCA 20) ......................................... 656
Williams v Commonwealth (No 2) (Constitutional Law; High Court and Federal Court) ([2014] HCA 23) .................................................. 701