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# Australian Law Journal

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The mode of citation of this volume is

**(2013) 87 ALJ [page]**

*The Australian Law Journal* is a refereed journal.

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**87 ALJR [page]**

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# THE AUSTRALIAN LAW JOURNAL

Volume 87, Number 1

January 2013

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## ARTICLES

### LEGAL COHERENCE IN THE HIGH COURT: STRING THEORY FOR LAWYERS

**Professor Michael Gillooly**

The law is not a disjointed grab bag of unconnected instances, bearing no relationship to each other. Rather it comprises a coherent and consistent whole. The fundamental importance of this notion of legal coherence has been emphasised in the recent jurisprudence of the High Court of Australia, mainly but not exclusively in the realm of negligence law. In this article, the notion of legal coherence is explored, the recent jurisprudence examined, and a strategy for dealing with incoherence issues outlined. .... 33

### CLAIMED PROPERTY RIGHT DOES NOT HOLD WATER

**John R Corkill OAM**

Evidence advanced for the proposition that “governments and legislatures cannot ignore the fundamental right of property owners to protect their land from the sea” is reviewed to test the veracity of this bold claim. The origin of this right and the courts’ clarification of its limited nature in English common law are explained, the impacts of modern statutes on common law rights are considered and the powers of State Parliaments to enact legislation are examined. By referring to decisions of superior courts and citing current NSW statutes applicable to the construction of coastal protection works, the article concludes that the claimed fundamental property right does not hold water. Coastal landowners are encouraged to recognise NSW shoreline law as it currently exists and challenged to abandon the claim to a right which has long ceased to exist in NSW. .... 49

### THE CONSUMER AND THE PERSONAL PROPERTY SECURITIES ACT 2009: DOES THE REGIME PROTECT CONSUMERS?

**Nicholas Mirzai**

There has been a series of legislative movements aimed at reducing the disparity between commercially sophisticated parties and their consumer client base in recent years. Some notable examples include the Australian Consumer Law imperatives and the introduction of the National Consumer Credit Protection Act 2009 (Cth) and accompanying Credit Code. Whilst commercial in focus, the Personal Property Securities Act 2009 (Cth) (PPSA) also offers some important protection to consumers when dealing with property affected by the regime. As this article demonstrates, the protections contained within this important statutory regime are potent and the consequences of misunderstanding their effect could prove fatal to an interest which would otherwise benefit from a position of priority under the regime. The article analyses the nature and extent of the consumer protection rationale underpinning some important sections of the PPSA with a view to arming commercial participants and their legal advisers with some pragmatic steps to prevent being caught unprepared. .... 59

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