

## Published works as of 1st July, 2009

### Books

#### EQUITY, RESTITUTION & FRAUD

(LexisNexis Butterworths, Sydney, 2004), xlvii + 491 pp

Examines Australian law on the corrective reach of restitution and the requirements of distributive justice, in a practical guide for litigation and the resolution of claims involving the proceeds of fraud.

#### COMMERCIAL EQUITY: FIDUCIARY RELATIONSHIPS

(Butterworths, Sydney, 1995) xxxi + 358 pp

Examines the penetration of equitable ideas into the commercial law of Australia and comparable jurisdictions. Particular attention is paid to the fiduciary relationship. Book has now sold in 12 countries.

### Chapters in books

'Compliance costs of the GST for small business: empirical evidence from Australia' (with B Tran-Nam) in Fisher, R & Walpole, M (eds) *Challenges of Globalising Tax Systems* (Bath, Fiscal Publications, 2005), Chapter 11, 210-243..

"Contribution" (with A Robertson) in *The Principles of Equity* ed. P. Parkinson 2nd edn (Lawbook Co, Sydney, 2003), Chapter 14, 541-553.

"Subrogation" (with A Robertson) in *The Principles of Equity* ed. P. Parkinson 2nd edn (Lawbook Co, Sydney, 2003), Chapter 14, 555-567.

"Small business, tax reform and tax compliance costs" (with B. Tran-Nam) in M. Walpole, and R. Fisher (eds) *5th International Conference on Tax Administration* (Timebase, Sydney, 2002): <http://www.timebase.com.au>

"Conflicts of interest in a corporate context" in *Corporate Crime Workshop 2002* G Acquah-Gaisie (ed) (Monash University, Dept of Business Law and Taxation, Melbourne, 2002), Chapter 3, 39-57.

"Globalisation of banking: an Australian perspective" in *Commercial Law in a Global Context* ed. B. Rider, Y Tajima and F Macmillan (Kluwer Law International, London: 1998), Chapter 5, 55-64

"Trusts" in *31.8 Laws of Australia Taxation* (LBC Information Services, Sydney: 1997), Chapters 1-9, 1-89.

"Identification of fiduciaries" in *Privacy and Loyalty* ed. P. Birks (Clarendon Press, Oxford: 1997), Chapter 10, 270-281.

"Taxing the constructive trustee" in *Trends in Contemporary Trusts Law* ed. A. Oakley (Clarendon Press, Oxford: 1996), Chapter 13, 315-331.

"Equity and restitution" in *The Principles of Equity* ed. P. Parkinson (LBC Information Services, Sydney, 1996), Chapter 4, 92-118.

"Contribution" in *The Principles of Equity* ed. P. Parkinson (LBC Information Services, Sydney, 1996), Chapter 14, 537-548.

"Subrogation" in *The Principles of Equity* ed. P. Parkinson (LBC Information Services, Sydney, 1996), Chapter 15, 549-561.

“Restitutionary recovery of taxes after the Royal Insurance case: commentary” in *Restitution: Unjust Enrichment in Australia* ed. M. McInnes (LBC Information Services, Sydney, 1996), Chapter 8, 131-136.

“Contribution” in *15.3 Laws of Australia* ed. G. Masel (Law Book Co, Sydney, 1993), [4]-[13].

“Subrogation” in *15.3 Laws of Australia* ed. G. Masel (Law Book Co, Sydney, 1993), [15]-[22].

## **Refereed journal articles**

“*Kennon v Spry*: are the “lights changing” for discretionary trusts” (2009) 84 *Law Institute Journal* (accepted for publication)

“*Kennon v Spry*: predicting the future of the discretionary trust in Australian tax law” (2009) 43 *Taxation in Australia* 581-583.

“Dissatisfied beneficiaries: challenging discretionary trustees” (2009) 83 *Law Institute Journal* 54-57.

“Shams, reimbursement agreements . . . and the return of economic equivalence?” (2008) 43 *Taxation in Australia* 21-26.

“Insolvency – calling in the undertakers: income tax, CGT, GST and stamp duty aspects” (2007) 10 *Journal of Australian Taxation* 220-250.

“A challenge to established law on discretionary trusts? *Re Richstar Enterprises*” (2007) 30 *Australian Bar Review* 70-89.

“Dissecting trusts and trusteeship: CGT and stamp duty consequences” (2007) 36 *Australian Tax Review* 201-221.

“The rule against perpetuities and its application to unit and discretionary trusts” (2007) 14 *Australian Property Law Journal* 225-237.

“Unintended consequences: International Accounting Standards, public unit trusts and The Rule Against Perpetuities” (with P von Nessen) (2006) 80 *Australian Law Journal* 675-693.

“Insolvency, tax and liquidation distributions: dividends, capital gains and the dead hand of the past” (with J Duns) (2006) 15 *International Insolvency Review* (UK) 109-128.

“Resettlements: revenue consequences of varying discretionary trusts” (2005) 79 *Australian Law Journal* 620-640.

“Taxing liquidation distributions: an assessment of Australian deemed dividend and capital gains regimes and how they interrelate” (2005) 34 *Australian Tax Review* 88-103.

“The taxation priority in insolvency: an Australian perspective” (with J Duns), (2005) 14 *International Insolvency Review* 1-16. (UK)

“The Goods and Services Tax – recurrent compliance costs and benefits for Australian small business: a case study approach” (with B Tran-Nam), (2004) 10 *New Zealand Journal of Tax Law and Policy* 334-352 (NZ)

“Estimating the transitional compliance costs of the GST in Australia: a case study approach” (with B. Tran-Nam) (2002) 17 *Australian Tax Forum* 499-536

“Conflicts of interest, conflicts of duty and the information professional” (2002) 23 *Adelaide Law Review* 215-242.

- “Tax reform in Australia: impacts of tax compliance costs on small business” (with B. Tran-Nam) (2002) 5 *Journal of Australian Taxation* 338-381.
- “RBT ‘Option 2’ – problems in concept and in practice” (2001) 4 *Journal of Australian Taxation* 1-39.
- “Is breach of confidence a fiduciary wrong? Preserving the reach of judge-made law” (2001) 21 (4) *Legal Studies* 594-617.
- “Insolvency administrations at general law: fiduciary obligations of company receivers, voluntary administrators and liquidators” (with J Duns) (2001) 9 *Insolvency Law Journal* 130-146.
- “Discretionary trusts, fiduciary duties and the Family Law Act: has the Family Court acted beyond power?” (2000) 14 *Australian Family Law Journal* 180-206.
- “Entity taxation and trusts arising by operation of law” (2000) 23 *UNSW Law Journal* 330-337.
- “Re-assessing the uses of the resulting trust: medieval and modern themes” (1999) 25 *Monash University Law Review* 110-131
- “Taxing trusts: entity or conduit - an assessment” (1999) 2 *The Tax Specialist* 194-203.
- “Australia’s mechanism for preventing the pass-through of corporate tax preferences: is change desirable?” (1999) 2 *The Tax Specialist* 124-131.
- “Taxing the proceeds of crime” (1997) 1 *Journal of Money Laundering Control* 117-124.
- “Wittgenstein and the existence of fiduciary relationships: notes towards a new methodology” (1995) 18 *University of New South Wales Law Journal* 443-463.
- “Banks and fiduciary relationships” (1995) 7 *Bond Law Review* 50-66.
- “Loch v Westpac Banking Corporation and the problem of superannuation fund surpluses” (1992) 9 *Australian Bar Rev* 172-184.
- “Restitutionary principles in tort” (1992) 18 *Monash University Law Review* 169-193
- “Equity, restitution and the proprietary recovery of value” (1991) 14 *University of New South Wales Law Journal* 247-282
- “Bankruptcy and constructive trusts” (1991) *Australian Business Law Review* 98-123

### **Other journal contributions**

- “Gain-Based Damages: Contract, Tort, Equity and Intellectual Property by J Edelman” (book review) (2004) 12 *Torts Law Journal* 259-261.
- “Conflicts of Interest and Chinese Walls by C Hollander and S Salzedo” (book review) (2001) 15 *Tolley’s Trust Law International* 61-63.
- “The Varieties of Restitution by I.M. Jackman” (book review) (1999) 73 *Australian Law Journal* 686-691
- “Unjust enrichment” in *The Philosophy of Law: An Encyclopaedia* ed C. Gray, (Garland Publishing, New York, 1999), Vol 2, 878-880.
- “Circumstances in a commercial case that give rise to a constructive trust” (1990) 64 *Australian Law Journal* 297-301