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Welcome

Welcome to the jurisdiction of excitement – commercial litigation.

Thank you for the opportunity to speak to you tonight. I am accompanied this evening by Justice Chernov of the Court of Appeal and former Commercial List judge, Justice Habersberger, recently appointed as a trial judge of the Supreme Court and Master Kings, the Listing Master. Tonight provides an opportunity to announce that as of 3 September Justice Habersberger will be joining me in the conduct of the Commercial List and the Corporations List of the Supreme Court. I will assume, from 3 September the responsibility of the Judge in Charge, that role presently being performed by Justice Mandie.

Tonight I thought it might be useful if I provided a broad historical outline of the conduct and management of commercial litigation in the Supreme Court of Victoria, then provide a description of what the Court does and, finally, provide some useful tips in the conduct of commercial litigation.

Historical Background

Shortly, the Court will celebrate its 150th anniversary. That milestone marks 150 years of accumulated experience and intellectual capital in commercial law and corporations law.

A significant aspect of the modern face of the Court is its Commercial List. Those with a commercial bias have always regarded, I think, the Commercial List of the Supreme Court as "the blue ribbon" jurisdiction. It was established over 20 years ago as a means of providing the legal profession with expeditious recourse to the court. The convention has generally been that commercial judges of the Court have sat in the Commercial List for a period of about two years. The general court philosophy has been that the demands of the List require great judicial energy and commitment and two years has been seen, broadly speaking, as the limit that should be imposed upon an individual judge. Next year will mark the commencement of my third year in the Commercial List. I hasten to add that might be a reflection of the fact that I am the youngest member of the Court!

The Supreme Court is very proud of its work in the Commercial List. The judges who have sat in the Commercial List could only be described as a "who's who" of the judiciary: Justice Hayne now of the High Court, Justice Brooking, Mr Justice Tadgell, Mr Justice Ormiston and Justice Chernov all of the Court of Appeal, Mr Justice Beach, Justices McDonald, Hedigan, Hansen and Mandie. And of course the original judges who sat in the List, Mr Justice Marks and Mr Justice O'Bryan.



The fundamental purpose of the Commercial List is to enable practitioners to have proceedings that relate to matters of commerce determined promptly so that the business community can return to matters of commerce. After all, time is money. I think the modus operandi of the List was well summed up by one senior Queen's Counsel who appeared before me recently when he said, "Your Honour ... this is the fast track list ... this is the list where things happen!"

I will return shortly to talk about management of cases in the Commercial List save to say that if you want something determined quickly (assuming the matter satisfies the criteria of the List) you should issue in that List. However, I hasten to add only do so if you can hack the pace.

In addition to the Commercial List the Supreme Court has a Corporations List. You might recall that some years ago corporations matters were dealt with usually in the Practice Court and later in the Causes List. This was changed largely at the behest of Justice Hayne, then of the Supreme Court, when his Honour established the Corporations List as an add-on to the Commercial List. Again I will talk in due course about conduct of proceedings in the Corporations List but I would want to say that it is largely conducted these days in a similar spirit to the way in which the Commercial List is conducted.

I have not mentioned thus far the creation of divisions in the Trial section of the Supreme Court. In the year 2000 the Court introduced three divisions: the Commercial and Equity Division, the Common Law Division and the Criminal Division. The Commercial List and the Corporations List fall under the umbrella of the Commercial and Equity Division. Again I will talk more a little later about the conduct of commercial litigation in the Commercial and Equity Division. But at this point it is interesting to tell you of the observations of the Court as a result of the creation of the divisions.

Probably for a long time it had been thought that the Supreme Court was predominantly a common law and criminal court. The figures that have come to light as a result of moving into divisions in fact reveal a different picture. Putting to one side the criminal workload of the Court it has become apparent that in the civil jurisdiction it is the commercial and equity work that represents the dominant component of the Court's workload.

In 2000 a total of 3,103 proceedings were issued in the Commercial and Equity Division (excluding grant of probate matters). A total of 1,216 proceedings were issued in the Common Law Division. Hence, the Commercial and Equity Division carried 66 per cent of the Court's workload.¹

Wealth of Judicial Experience

When one prepares for a task such as I have for tonight, inevitably one reflects upon the membership and experience of the Court you are talking about. When one considers the membership of the Court of Appeal it is, if I might say with the utmost respect, a venerable commercial court: only pause to consider the present constitution of the Court of Appeal. You know, recently I realised shortly before the retirement of Mr Justice Tadgell that taken together Justice Brooking, Mr Justice Tadgell and Mr Justice Ormiston represented something like 60 years of combined

¹ Figures provided by the Supreme Court Registry.



judicial experience. A daunting statistic. More so when one reflects upon the fact that they are renowned commercial and corporations law jurists.

My reflections also caused me to consider the membership of the Commercial and Equity Division of the Court: Justice McDonald, the principal Judge in Charge, Justices Byrne, Harper, Hansen, Mandie, Habersberger and myself. In recognition of such a wealth of judicial riches the Court has within the Commercial and Equity Division other specialist lists. The Building List and the Admiralty List both presided over by Justice Byrne. The Intellectual Property List presided over by Justice Harper. The State Taxation List presided over by Justice Hansen.

Of course the Court could not function without the support and assistance of its Masters. My reflections reminded me that Senior Master Mahony and Master Evans together have 30 years' corporations experience in the court.

Expedition and Service

Two of the primary goals of the Supreme Court of Victoria are to facilitate the conduct of litigation on an expeditious basis and to provide the highest quality but most cost-effective judicial service to the legal profession.

The Court is proud of the fact that its performance when compared nationally bears out fulfilment of those goals. According to the 1999-2000 figures and analysis of the Productivity Commission, the Supreme Court of Victoria leads every other superior court in the nation (Supreme and Federal) in terms of turn around of litigation.

On the basis of data provided by all superior courts across Australia, in accordance with a formula set by the Productivity Commission, the Victorian Supreme Court was assessed as achieving a final disposition rate of 83 per cent of all its civil cases in 12 months. Notably, 75 per cent of all cases were finally disposed of within six months.²

Expedition is, as I say, one of the Court's primary goals.

This is demonstrated so far as the Court of Appeal is concerned by the statistics for the year 2000. In that year the Court disposed of 183 civil appeals (excluding interlocutory applications). The average time from the date of filing to hearing of appeals in the Court of Appeal was just on 11 months. The average time for delivery of judgment was 2.2 months. Hence, in the year 2000 the Court of Appeal on average turned appeals around in just on a year.³

It is a matter of some pride to the Court that the Court of Appeal has an outstanding record in relation to appeals from it to the High Court. The reality is that there are very few appeals. In the year 2000 there were 15 special leave applications. Eleven of those were dismissed by the High Court. Four were granted. Of the four granted one was allowed and one was dismissed and there are two remaining to be heard.

It is to be remembered, also, that only the Courts of Appeal in Victoria and in Queensland hear both civil and criminal appeals. There is a different regime in place in New South Wales and elsewhere. It is interesting to note also that only one

² Report on Government Services, Vol I, Education, Health and Justice, January 2001, p.420 Table 9.5; see also, The Australian Financial Review, 2 February 2001.

³ Figures provided by the Registry of the Court of Appeal.



criminal appeal has been allowed by the High Court since the inception of the Victorian Court of Appeal in 1995.

It is my belief that the Court of Appeal of Victoria leads the nation in terms of its "success rate" before the High Court.

Moving on from the Court of Appeal, it might create a broader picture if I provide some examples of the speed with which commercial cases are heard and determined in the Supreme Court. I give you two examples. The Powercor case was heard by Justice Gillard in the Commercial List. It was a case that started out apparently with a short estimate but blew out ultimately to a trial of 86 days, about 23 weeks, bearing in mind that his Honour sat on Fridays in both the Commercial List and the Corporations List. Notwithstanding its legal and technical complexity, after an 86 day hearing judgment was delivered a fraction over 10 weeks later.

A further example is the Aqua-Max case. Another case of Justice Gillard. That was a corporations matter, an oppression proceeding. The initial trial lasted 54 days, almost 14 weeks, remembering again that his Honour was conducting the Commercial List and the Corporations List on Fridays. Judgment was delivered five weeks after the last trial day. There was a subsequent hearing in relation to other matters. Ultimately, the Aqua-Max case came before the Court of Appeal. The appeal lasted over seven days. I understand from Justice Brooking that it represented the largest civil appeal that the Court of Appeal has heard thus far. The Court recently delivered its judgment exceeding 100 pages five weeks after the last day of hearing.

In the Commercial List it is not unusual for a matter to proceed to trial in a period even less than six weeks. One experience I had this year in the Commercial List was a matter that commenced at the end of May, underwent a number of directions hearings, came on for trial in mid June and after three days of hearing a judgment exceeding 30 pages was handed down two weeks later.

The Commercial and Equity Division

I want to talk a little bit now about the division itself. Leaving aside matters that do not come within the province of the Commercial List or the Corporations List, commercial and equity matters otherwise fall within the ambit of the Commercial and Equity Division. There is a practice note that indicates the types of matters that come within the ambit of that division. There are the obvious matters concerned with contracts, mortgages, banking matters and the like, that is, matters of commerce and also matters within the equitable jurisdiction. When solicitors issue proceedings they are required now to designate in the title of the writ the particular division in which they file the matter. After issue, the proceeding is directly managed by the unit of the Court known as the Litigation Support Group. A Master will issue directions to the parties on the papers. Non-compliance is scrutinised rigorously.

Now what happens if parties have a matter that is urgent but is not one that falls within the ambit of the Commercial List or the Corporations List? What happens if the matter is a large matter that warrants judge management prior to trial? Taking the first type of matter, that is, one where the parties say there is urgency, the best starting point is to contact the Associate to the Listing Master. If appropriate, a summons for directions can be issued before the Listing Master and she can determine at that stage how best the matter can be managed. She may assume



responsibility for management herself. She may form the view it is sufficient for the matter to remain under the supervision of the Litigation Support Group. Alternatively, the Listing Master may form the view that it is appropriate for the matter to be subject to direct judicial management. There are cases where it is clear from the outset they constitute what are called long cases. Where appropriate, the Listing Master will provide the parties with a trial date well in advance. The parties are able then to prepare and subject themselves to an interlocutory timetable to fit with that trial date. Those cases are generally subject to ongoing management by the Listing Master and, if needs be, by a Judge. However, I cannot emphasise too strongly that if you have a problem with a case, or if you have a long case, contact the Associate to the Listing Master at the very outset.

Of course special cases arise from time to time that are massive in scale. The Supreme Court has considerable experience in the conduct of such cases. I call to mind that Justice Smith conducted the Estate Mortgage case over many months, Justice Byrne conducted the Pyramid case and, very recently Justice Hansen conducted the Aroni Coleman case. Each of those cases were subject to strict judicial management before they were brought on for trial. I have to say that the Aroni Coleman case was one where the speed with which the matter was brought on for trial, heard and proceeded towards judgment (it being settled ultimately) was astounding.

Court Facilities

I have neglected to advert thus far to the facilities of the Supreme Court. The principal building itself is one of Victoria's heritage landmarks. Notwithstanding its age and beauty the Court provides state of the art facilities to meet the demands of modern 21st century commercial litigation. We are constantly refining out computer facilities and have the experience under the belt of the Occidental, Linter, Estate Mortgage, Pyramid and Aroni Coleman cases and other commercial type matters (such as Elliott and Grollo in the Criminal Division). There is the 13th Court that is referred to colloquially as the "Cyber Court". If you have not visited it since its renovation I urge that you call in. It is to be remembered that the 13th Court is at the top of the stairs near the police desk. The restoration is beautiful. But more importantly for the purposes of commercial litigation the Bar tables and the Bench have been constructed to facilitate the paper-free trial. Call in and see for yourself. So far as audio-visual facilities are concerned, almost all courts throughout this precinct are linked. I have to say that all the judges in the Commercial jurisdiction are keen to use audio-visual facilities. My only reservation is that it is the profession that seems to be reluctant to use them. We have the facility. Ask for it.

Mentioning special courts, I should not overlook the fact that the Old High Court building now plays a very important role in commercial litigation. The court is the commercial precinct of the Supreme Court. Things are organised so that the Commercial List and the Corporations List sit on Fridays in adjacent courts in the Old High Court. This is done to facilitate appearances, discussions and the like. There is a suitable foyer to enable the parties to congregate. There are meeting rooms. I should mention that on the first floor there is a mediation and arbitration facility. Speaking of the Old High Court you should also call in if you have not done so already to see the No.3 Court. That court was created as a special technical court for the purposes of the Powercor case. The seating was removed and a false floor installed with cabling underneath.



Special arrangements are not unusual in the experience of the Court. With Estate Mortgage and Aroni Coleman the Court established custom made facilities in buildings away from the Court building proper.

I must not neglect the Court of Appeal. It has the facilities and capacity to conduct paper-free appeals.

Commercial List

I need to speak to you now in a little more detail about the Commercial List itself. Proceedings are commenced by way of writ and a summons for directions made returnable a week or so after the issue date. Directions hearings are held on Fridays at 10.00 a.m. The most important persons for practitioners to establish contact and rapport with are the Associates to the Judges sitting in the Commercial List. At the first directions hearing the parties should be in a position to submit to a timetable. Generally 14 to 21 days is considered sufficient for a defence. Discovery and inspection should be completed (unless there are special compelling circumstances) within another 21 days or thereabouts. Requests for particulars are discouraged. Interrogation is only by leave, rarely granted. As a general rule matters should be ready for trial within eight to 12 weeks of the issue date. We have had experience in recent times of parties conducting themselves at a more leisurely pace. We are endeavouring to change that culture. Be warned. I have to say in my experience the consistent factor causing delay in readiness for trial is discovery. Often times this is because solicitors do not allocate sufficient resources to meet the demands of the Commercial List and, in particular, discovery. If you are a plaintiff do not, as I have said, enter the Commercial List unless you are prepared to be subjected to its rigour. If you are a defendant you will need to fall on the mercy of the Court but again, be warned, it is not easy. In these days of paralegal services and the resources that are available to solicitors in the context of the commercial stakes that are usually at risk, application of appropriate resources is justified.

On Fridays the Commercial List Judges deal with all interlocutory applications returnable that day so far as practicable. Sometimes it happens that parties have urgent or long interlocutory applications that will be heard on other days. It all depends upon the demands of the particular case, the availability of the Judge and the urgency of the matter. Again, I cannot emphasise too strongly that it is critical to liaise with the Associate to the Judge in charge of your particular matter in the Commercial List. Whenever matters proceed, be it on a Friday or another day, that are the subject of legal argument it is highly desirable that written legal submissions be provided to the Judge the day before. This is a matter that solicitors should pursue their counsel over. It is in the interests of the parties to do so. Generally, the Commercial List Judges read the papers in advance and if they have the opportunity to consider the legal arguments together with the relevant authorities court time is saved and the proceeding proceeds more speedily.

I should mention applications for interlocutory injunctions. These matters wherever practicable can be heard by the Judges in the Commercial List. Sometimes they are referred across from the Judge sitting in the Practice Court. It really all depends upon the availability of Judges. If it transpires that the Commercial List Judges are engaged in running trials they will often try to deal with matters outside usual court hours, for example, at 9.30 a.m. or 4.30 p.m. or endeavour through the assistance of the Listing Master to have the matter referred to a Commercial and Equity Division Judge.



I should say something, also, about the types of matters that will not be allowed into the Commercial List. Matters that relate to circumstances more than 12 months old will generally be evicted. It is not a uniform rule but solicitors should be mindful that at the early directions hearings the presiding Judge may call upon a plaintiff to explain why a matter should be permitted to remain in the list it being on its face "stale". There are other disputes that clearly do not involve matters of commerce: negligence claims, employment contract cases, disputes relating to land for example removal of caveats, disputes over deceased estates, building disputes and product liability claims to name but a few. Ultimately it is a matter of applying common sense to the criteria set out in Order 2 of Chapter II of the Rules. I have had experience where parties have issued in the Commercial List in relation to circumstances that were really unsuited to the List, for example, a products liability claim and with the parties' agreement I transferred the matter across to the Major Torts List where it was more appropriately located. There are other matters that have a distinct commercial flavour such as Intellectual Property matters where it may or may not be appropriate for the matter to remain in the Commercial List. Generally it would not and it would be more appropriate to liaise with the Associate to the Judge in Charge of the Intellectual Property List.

I must say something, also, about the duration of cases. When a matter is fixed for trial parties are expected to give accurate estimates of trial duration. Generally (but not always) trials are confined to liability only. As a general rule cases will not be fixed for trial in the Commercial List of more than ten days' duration. Longer cases may be managed in the List but eventually fixed before another judge after consultation with the Listing Master.

I cannot say as a general rule how long it will be before a matter is given a trial date once it is ready for trial. This will vary depending upon the pressures that the list is subject to at a particular time. For example, at present I am in the position to offer trial dates in August, September and October. But I seem to have few takers. The incentive to solicitors is that in the early part of next year, that is, February and March 2002, the Commercial List is reasonably full. So it really comes down to a case of take a date now otherwise you will be waiting until into next year.

Once the matter is ready for a trial there are standard directions made by the Judge. Mediation almost always will be ordered whether the parties desire it or not. I have been told so many times by parties that "the case is not one suitable for mediation", nevertheless I have referred it and lo and behold it has settled. I have to say there is a very high success rate with court ordered mediations in the Commercial List. My experience informs me that this is largely due to the skill of senior mediators, particularly those retained from the senior Bar. When ordering mediation, at the same time a pre-trial timetable will be set commencing approximately one month before the trial date. There will be orders made for a draft index to a Court Book, the filing of the Court Book, the filing of witness statements and a chronology. Most of the burden falls upon the solicitors for the plaintiff. I have referred to witness statements. Subject to other order by the trial Judge all trials in the Commercial List proceed by way of witness statements. I should refer to the Court Books. The evidence in a Commercial List trial proceeds by way of reference to documents in the Court Book. At the end of the trial the solicitor for the plaintiff will be required to provide to the Court a "filleted" Court Book, that is the book containing the documents referred to during the course of trial. This is done by way of cross-



checking with the transcript as to which documents have been referred to in evidence. That Court Book in its final form ultimately forms an exhibit for tender.

I should mention fees. The Commercial List charges a higher fee for issuing, a little over \$1,800. Essentially it is a case of user pays for the services provided.

The Corporations List

I have already referred in part to the Corporations List. I should give you a little more detail now as to how it works on a day to day basis. Those matters that can only be determined by a Judge are initially made returnable on Fridays at 12 noon in the Corporations List. In the Supreme Court we have two judges sitting each Friday to deal with your corporations business. The Senior Master hears Corporations matters each Wednesday. It is a matter of looking at the schedule to the Corporations Rules and satisfying yourself as to whether your matter falls within the power of a Master or must go directly to a Judge. In terms of Corporations days (whether it be Friday before a Judge or Wednesday before a Master) sometimes matters can be dealt with and disposed of on that occasion. Sometimes it will be necessary to give directions.

The fee payable on issuing a Corporations proceeding in the Supreme Court of Victoria is, it seems, very cost effective. The Supreme Court issue fee is \$652. By comparison I understand that the equivalent Federal Court fee is \$1,262.⁴

There is a practice direction requiring the parties to file written legal submissions in advance. It should be complied with again to facilitate expedition of your case.

One type of application that warrants special mention are schemes of arrangement and mergers. In recent times the Court has approved significant schemes of arrangement, for example, BHP and One Steel, Amcor and Paperlink and the merger of the Colonial and Commonwealth Banks. Approval of schemes of arrangement involves consideration usually of vast amounts of documents. It assists the Court and, indeed, expedites your application if draft documents are submitted to the Court in advance, together with detailed legal submissions and proposed minutes of orders. Generally there is a market imperative that governs these types of applications and the Court has adopted an approach of facilitating expedition.

For the last two years the Supreme Court of Victoria has been the only court of resort with respect to corporations matters in this State. After the High Court judgment in Re Wakim the Court was a little apprehensive as to the workload that might descend upon it. As events transpired the work that came across was dealt with and absorbed comfortably. The Court has observed an increase in the volume of its Corporation List work but I am pleased to say that the expedition described earlier has remained a standard that it meets. In 2000 a total of 1,034 new corporations

⁴ It is understood that the Federal Court fee where proceedings are issued by an individual (compared with a corporation) is \$526. The setting down fee in the Supreme Court is \$335 (not including the first day hearing fee). The Federal Court equivalent fee (including the first day hearing fee) is \$2,104 for corporations and \$1,052 for individuals. The daily hearing fee for all days in the Supreme Court is \$315. The Federal Court equivalent fee (after the first day) is \$842 for individuals. The Supreme Court fee for the filing of an interlocutory process is \$254. There is no fee charged by the Federal Court for the filing of a Form 3 interlocutory process under the rules of that Court.



matters were issued and of those 934 were finalised within a median time of 1.4 months real time.⁵

I recently had a corporations case that required urgent determination. It involved a number of long interlocutory hearings dealing with injunctions. Eventually, it was fixed for trial to commence six weeks after the issue date.

Mentioning injunctions causes me to advert to the fact that in the Supreme Court there is the institution of the Practice Court. It must be a matter of some solace to those engaged in commercial litigation that an experienced judge being Mr Justice Beach mostly sits in that Court. It is to be remembered that his Honour sat for a number of years in the Commercial List. That by way of aside reminds me of the story that his Honour has told me of one Friday afternoon after having completed directions in the Commercial List in the hectic days of the '80s he was feeling somewhat tired. Mr Justice Marks came into his Honour's Chambers and said that he had achieved a record that day in the Commercial List of dealing with 60 directions hearings. Mr Justice Beach tells me that he looked up and said, "Well, the record has fallen. I just finished 66."

The Corporations List is a technical jurisdiction. It is important therefore to be familiar with the legislation and the rules. For example, although the Corporations Rules are now harmonised across Australia there are some exceptions. In Victoria there is Order 16 of Chapter V. This order enables a Judge to refer a matter for final determination under the Corporations Act and Rules to a Master. So for example, with appropriate matters, say an appeal against a liquidator for a modest sum, that can be referred to a Master for expeditious hearing.

Mentioning the Masters prompts me to direct your attention to the sitting every Wednesday of the Senior Master in the Corporations List. The Senior Master usually deals with statutory demands, the setting aside of such demands and other matters within his jurisdiction under the schedule. Again, consistent with the desire for expedition and service the Senior Master has a practice of preparing what is generally known as his check list. That list is usually completed by Monday for matters in the Master's list the following Wednesday. If you want to know how your case is going and whether there are any technical deficiencies in the material you should contact the Associate to the Senior Master. In that way you may be able to rectify some technical oversight. Again, the primary target of the Corporations List before the Masters is one of expedition. Matters will be listed and determined promptly. Likewise any appeals from the Master will be heard promptly by a Judge in the Corporations List.

The experience and knowledge of the Senior Master and Master Evans in particular in the Corporations area are well known. I understand that last Wednesday a number of Registrars of the Federal Court sat at the back of the Senior Master's court observing the proceedings.

Finger on the Pulse

In addition to working in court the Judges of the Supreme Court make every endeavour to keep their finger on the pulse. They liaise with judges in other jurisdictions. The Judges are also members of relevant bodies. For example, Justice Mandie and I are the only judicial members of the Australian Advisory Board

⁵ Figures provided by Supreme Court Registry.



of the Centre for Corporate Law and Securities Regulation save for Justice Hayne who is Chairman of that Board.

From time to time we deliver papers. I recall that earlier this year at a significant conference on Corporations held at Melbourne University to commemorate the work of Emeritus Professor Harold Ford AM the audience included a number of Supreme Court "Corporations" Judges from Victoria and New South Wales.⁶ Papers were delivered from an outstanding array of international and national commercial and corporations law commentators and academics. I note that only two judges delivered substantive papers, Justice Chernov from Victoria and Justice Austin from New South Wales.⁷ The Supreme Court is also represented on the harmonisation committee, that is the committee consisting of judges across all jurisdictions established in the endeavour to ensure that there are core corporations rules applied in each jurisdiction. That prompts me to recall that the model Corporations rules did not include a prescribed form of affidavit on winding up applications. At the behest of the Senior Master a form of affidavit to assist practitioners is contained now in the Victorian version of the Corporations Rules. I understand that other jurisdictions are looking to follow Victoria's lead.

Conclusion

How does one comprehensively discuss commercial litigation in the Supreme Court? It is so much to attempt to cover in such a short time. However I hope that this broad overview I have given will enable you to conduct your cases expeditiously, cost effectively and in a way that best represents the interests of your clients. May I say that the court is ever open to suggestions as to how it can refine its system. Later this evening there will be an opportunity for questions and if you have any comments or suggestions you wish to make I welcome them.

⁶ Key Developments in Corporate Law and Equity (A celebration of the scholarship of Emeritus Professor Harold Ford AM), Conference held at the University of Melbourne, 16 March 2001.

⁷ The Hon. Justice Finn of the Federal Court delivered a commentary on "Key Issues in Equity and Trusts Law".