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Editorial: Autumn 2004

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Editorial

This issue casts a light on the dramatic happenings in the Queensland criminal justice system that occurred late in 2003. After a jury of their peers deemed Pauline Hanson and David Ettridge guilty on fraud charges they were both imprisoned for lengthy terms. There was an enormous outcry from supporters who suggested that these convictions were the result of a conspiracy by establishment forces to destroy a political opponent. If that was the claim the conspiracy soon collapsed and both were released after a successful appeal to the Court of Criminal Appeal. It is worthwhile to discuss what were the legal factors behind the conviction and acquittal of Hanson and Ettridge and why the system worked the way it did.

Associate Professor David Field will discuss the legal reasons for the reversal of the decision by the Court of Criminal Appeal in *The Perils of Pauline*. His article makes it obvious that the principles of contract law, not always at the front of the mind of a criminal lawyer, were the fundamental reason for the acquittal.

In the immediate aftermath of the conviction Hanson and Ettridge sought bail to avoid the necessity to remain in detention pending the hearing of the appeal. Unusually Hanson was provided with funding to allow her to take that bail application on appeal from the Supreme Court to the Court of Appeal and ultimately to the High Court. She was unsuccessful in all those instances but interestingly the judgement of the Court of Appeal would have provided her with hope of a successful appeal against conviction. I deal with what bail is, when it is granted and how it was dealt with in this case in *Bailing Out Hanson and Ettridge*.

The Hanson Ettridge case once again raises the question about the appropriate role of juries in criminal matters. Is an accused person on some occasions more likely to receive a just result if a judge hears the case alone? Assistant Professor Robyn Lincoln and Deb Lindner discuss this issue in their article *Judging Juries*.

Some parents have a zero tolerance to misbehaviour by teenagers. This might be appropriate for some things but does it work in law enforcement? The idea is that by enforcing every minor legal infringement this reduces more serious crime. It has been used with some success in the USA and Australia. But do the costs of this approach outweigh the potential human rights implications? Assistant Professor Robyn Lincoln raises this and other issues in *Zero Tolerance Policing Threatens Personal Freedoms*.

The Hanson case has confirmed that sometimes innocent people are convicted. How does the system deal with that? In his article *Australian Miscarriages of Justice* Bernie Matthews relates a number of situations where the justice system seemed to fail and asks how our system can be reformed to avoid this occurrence.

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Did You Know

A few interesting statements on the law dealing with the art of advocacy:

"Much truth is spoken that more may be concealed."

"Admissions are mostly made by those who do not know their importance."

"The value of all testimony is determined by a paradox; for that which costs much is worth little, while that given freely is without price."

"A gruff man is commonly thought honest. You should therefore play to such a one on the pipe of politeness, that he may look ill tempered and if he will not dance, and ill mannered if he do."

"A timid question will always receive a confident answer."

"Should a witness be naturally cautious and circumspect, there is no resource but to give him large opportunity for reticence, that it may be taken for disingenuousness."

"To prove that any man is a notorious liar has its dangers, since it heightens the effect of every truth he tells."

"Many counsel repeat every answer they obtain. A poor artifice for impressing a fact on the jury; because it is but telling them that they can comprehend only those things which have been said twice. And, although it is often necessary that a jury should not understand your case, it can never be advisable to show them that you think they cannot."

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