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# Editorial: Spring 2005

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# Editorial

Battered wives syndrome is a controversial but significant defence available to women when they are charged with serious criminal offences that they state were prompted by significant periods of abuse by their partner. In his article *Desperate housewives get legal backing* Associate Professor David Field analyses the features and appropriateness of this defence.

Few trials have attracted more attention than the recent Schapelle Corby Bali trial. Many have assumed this type of result would not have occurred under our judicial system. Is that correct? In his article *"Judge not, lest ye be judged" The Corby case – can it happen in Australia?* Associate Professor David Field asks these questions and you might be surprised by his conclusion.

Many think that judicial decision making is simply a matter of a judge making a decision on cold bard facts and the simple application of legislation. A judge may bave a particular philosophy or approach to his or her task based on whether they think they are obliged to be conservative or active. In part two of her article *Rule of Law, Separation of Powers and Judicial Decision Making in Australia* Tina Hunter Schultz in this issues charts the different approaches taken by the High Court in its history from Federation until today.

Some of you may have been involved in the Bond University High Schools Mooting Competition in 2005. We recently had the final of this competition on campus. David Field in his article *Political free speech – how far does it extend?* deals with some of the issues that arose in the final. It might help you to prepare for next year?

If you spend a lot of time on the web then perhaps you should visit a legal weblog. Gillian Coutino and John Bahrij provide some interesting sites for you to visit in *Weblogs for Lawyers*.

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## DID YOU KNOW

### Legal Terminology – Some useful definitions

**Misfeasance** – doing something badly or inappropriately

**Miscarriage of justice** – where an accused person has been denied a possibility of being acquitted because of a failure to properly apply the rules of evidence; procedure or relevant principles of law. If a substantial miscarriage of justice has occurred a conviction may be set aside.

**Moot point** – An arguable point – a legal issue that is open to debate.

**Mortgagee's power of sale** – the right of a mortgagee to sell property after default by the mortgagor.

**Mutual Assent** – Agreement between two parties on the terms of a contract. Without mutual assent a contract is void.

**Mutual Mistake** – wbere both parties to a contract are mistaken though eacb parties mistake is different from the other.

*(Source: Butterworths Concise Australian Legal Dictionary 1997.)*