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## Editorial: Autumn 2007

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# Editorial

This issue of *The National Legal Eagle* resonates with themes of public accountability and protection of vulnerable parties.

Assistant Professor Robyn Lincoln and Masters of Criminology graduate Sarah Otto robustly defend existing prohibitions on the public naming of juvenile offenders in their article *To Name and Shame or Not*. The authors are highly critical of instances where such protective laws have been overturned, citing evidence that naming and shaming youthful offenders can lead to degradation, stigmatisation and even vigilante action. They favour a reintegrative approach to dealing with young offenders in order to promote reconciliation, repair harms and restore public confidence in the criminal justice system.

In *A Murderer, his Medicine and a Dose of Statutory Interpretation*, Postgraduate Fellow Joe Crowley uses a fascinating case example to highlight the principles, and possible pitfalls, relating to the proper construction of statutory provisions.

The serious consequences of corruption are Senior Teaching Fellow Joel Butler's particular concern in *Corruption, Power and the Law*. In this article, Joel condemns the public harm, and the harm to individuals, resulting from corrupt activities, and lauds the institutions that have been set up to combat corruption in Australia. Importantly, he also reminds us that there is no substitute for

the vigilance of ordinary citizens in ensuring that anti-corruption mechanisms are working properly.

Australia's industrial relations landscape has been significantly altered by the 'Work Choices' legislation. Adjunct Associate Professor Amanda Coulthard explores this theme in *Unfair Dismissal under Work Choices*, explaining last year's changes to the federal unfair dismissal laws and evaluating the protection now afforded to Australian employees against a harsh, unjust or unreasonable dismissal.

Section 52 of the *Trade Practices Act 1974* (Cth), the statutory prohibition of misleading or deceptive conduct on the part of corporations, is often credited as Australia's most important legislative provision. Certainly, it is the most litigated section of the TPA. Assistant Professor Dan Svantesson's article, *Some Observations on the Regulation of Misleading or Deceptive Conduct*, presents a cogent review of the essential elements of s 52 and the way in which the section is applied.

I hope you enjoy these articles. And best of luck to those of you competing in the Bond University High Schools' Mooting Competition 2007!

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## DID YOU KNOW?

### Legal Terminology

**Aid and abet** – to assist in the commission of a crime without actually participating in the offence itself (the party who aids and abets must be shown to have been in some way linked in purpose with the person actually committing the principal offence, and their words or conduct must encourage or render more likely the commission of the crime).

**Battery** – the reckless or intentional application of force to another person without consent, lawful excuse or justification.

**Contempt of court** – words or actions which interfere with the proper administration of justice or constitute a disregard for the authority of the court.

**Corroboration** – independent evidence which implicates the accused person by connecting him or her with the crime.

**Indictable offence** – an offence which can be prosecuted before a judge and jury.

**Mens rea** – 'a guilty mind'; the state of mind required to constitute a particular crime; the mental element of an offence.

**Nolle prosequi** – 'unwilling to proceed'; an entry made in a court record when the prosecutor or plaintiff is unwilling to continue the suit against the defendant.

**Subpoena** – a document by which a court compels a person to attend court to give evidence or to produce documents within that person's possession.

(Source: *Butterworths Concise Australian Legal Dictionary 2004*.)