

Curriculum vitae

2021



Dr John Stephen Glover

B.A. (Hons) , LL.B. (Hons.) (Melb.), B.C.L. (Oxon),
Ph.D. (Monash), TEP, FTIA

Professor, Graduate School of Business and Law,
RMIT University

Owen Dixon Chambers
525 Lonsdale Street
Melbourne 3000

Email: jglover@vicbar.com.au
Telephones 0421 852 840; (03) 9225 8025

Published works

Books

EQUITY, RESTITUTION & FRAUD
(LexisNexis Butterworths, Sydney, 2004), xlvii + 491 pp

judicial citation list available on request

reviewed:

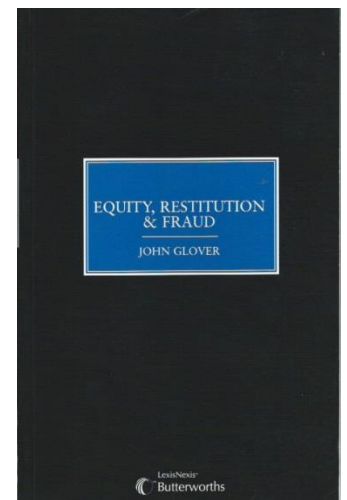
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(2004) 23 *University of Qld Law Journal* 258

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COMMERCIAL EQUITY: FIDUCIARY RELATIONSHIPS
(Butterworths, Sydney, 1995) xxxi + 358 pp

Judicially cited:

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Roxborough v Rothmans of Pall Mall Ltd (2001) 208 CLR 516
Pilmer v Duke Group Ltd (in liq) (2001) 207 CLR 165.
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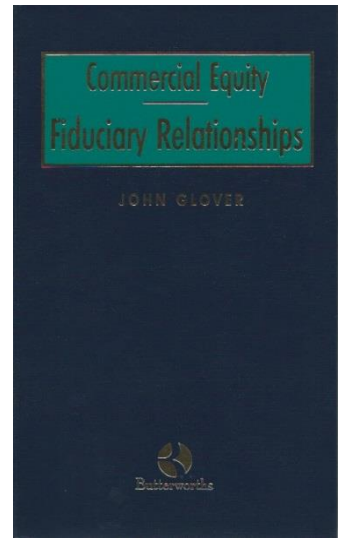
reviewed: (1997) 71 *Australian Law Journal* 642
(1997) 75 *Canadian Bar Review* 388
(1997) 23 *Monash University Law Review* 222
(1996) 7 *International Company and Comm. Law Review* 284
[1996] *Lloyd's Maritime and Commercial Law Quarterly* 423
(1996) 8 *Journal of International Banking Law* 344
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CIVIL WRONGS, INSOLVENCY AND PROPERTY
RIGHTS IN COMMON LAW LEGAL SYSTEMS (in Serbian translation)
(Dosije, Belgrade, 2011) 258 pp
(ISBN 798-86-7972-069-6)

FORD & LEE: THE LAW OF TRUSTS
(Thomson Reuters, Sydney, loose-leaf and online)

Contributing author (2008-2020)



with WA Lee and M Bryan),
responsible for 7 chapters.

Refereed journal articles

"Trust registries, discretionary trusts and beneficial owner: a dubious gift from civil lawyers?" [accepted for publication] (2021) 27(7) *Trusts & Trustees*

"Trusts at the intersection of tax and criminal laws: Unpaid tax, 'unexplained wealth orders' and the *Proceeds of Crime Act 2002*" (2021) 36 *Australian Tax Forum* 33-51

"Tax agents: beware of 'administrative overpayments' added to your RBA" (2020) 55 *Taxation in Australia* 238-241

"Tax agents supplying trust deeds and advising on trusts: Unauthorised legal practice?" (2018) 33 *Australian Tax Forum* 411-436.

"Property rights, restitution and fraud: disciplining wrongdoing in capitalist systems," *Facta Universitatis – Series Law and Politics*, Vol. 14, No 1 (2016)
<http://casopisi.junis.ni.ac.rs/index.php/FULawPol>

"Taxation of trusts by entitlement: the end of the road?" (2014) 43 *Australian Tax Review* pp 1-18.

"The trust in common law legal systems: functions and philosophical correspondences" (2013) 12 *Facta Universtatis* (Philosophical Series) pp 145-159.

"Nominal or 'dummy' settlors: is it time to reform the law of trusts?" (2012) 6 *Journal of Equity*, 19-43.

"Anti-formalism and the structure of Anglo-American commercial law" in (2011) 13 *Law and Economy* (in cyrillic) *Праведа и право*, 48-67.

"Wills, water law and the ideology of the family farm" (2011) 85 *Law Institute Journal* pp 40-43

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"Public officials, public trusts and fiduciary obligations" in K. Coghill, C Sampford and T. Smith (eds) *Fiduciary Duty, Public Trust and the Governance of Climate Change* (London, Ashgate Publishing, 2012) ,69-98.

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“Small business, tax reform and tax compliance costs” (with B. Tran-Nam, 50%) in M. Walpole, and R. Fisher (eds) 5TH INTERNATIONAL CONFERENCE ON TAX ADMINISTRATION (Timebase, Sydney, 2002): <http://www.timebase.com.au>

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“Trusts” in 31.8 LAWS OF AUSTRALIA *Taxation* (LBC Information Services, Sydney: 1997), Chapters 1-9, 1-89.

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cited: M Bryan ‘Unjust enrichment and unconscionability in Australia’ in J Neyers et al *Understanding Unjust Enrichment* (2004) 47, 67 and n. 101.

K Barnett ‘The uneasy position of unjust enrichment’ (2002) 23 *Adel L Rev* 277, n.85.

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Foreword to I.M. Jackman *The Varieties of Restitution* (1998) (Hon. Justice W.M.C. Gummow)

“Contribution” in THE PRINCIPLES OF EQUITY ed. P. Parkinson (LBC Information Services, Sydney, 1996), Chapter 14, 537-548 [based on LAWS OF AUSTRALIA, 1993].

cited: NSW – Court of Appeal
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“Subrogation” in *THE PRINCIPLES OF EQUITY* ed. P. Parkinson (LBC Information Services, Sydney, 1996), Chapter 15, 549-561 [based on *LAWS OF AUSTRALIA*, 1993].

cited: Ontario Superior Court of Justice
Re Ontario New Home Warranty Program v Jack Grant 512729 Ontario Ltd (2001) 4 RPR (4TH) 56.

“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].

Other journal contributions

“Resettlements, discretionary trusts and the *Duties Act 2000* (Vic)” Law Institute of Victoria, Commercial Law Section Newsletter (2006 on-line):

<https://www.liv.asn.au/members/sections/commercial/about/commercial-Commerci.html>

“Gain-Based Damages: Contract, Tort, Equity and Intellectual Property by James Edelman” (2004) 12 *Torts Law Journal* 259-261 (Book Review).

“Conflicts of Interest and Chinese walls by Charles Hollander and Simon Salzedo (2001) 15 *Tolley’s Trust law International* 61-63.

“The Varieties of Restitution by I.M. Jackman” (1999d) 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

Conference papers

"Trust registries for Australia?" paper to be presented to the *Society of Trusts & Estates Practitioners (STEP) Australia National Conference 2021*, Sydney, 30 July 2021.

"Current developments in the taxation of trusts" paper presented to Taxation Institute of Australia *National Tax Intensive* Noosa Heads, 22 November 2019.

“Trusts at the intersection of tax and criminal laws” paper presented to the *Society of Trusts & Estates Practitioners (STEP) Australia National Conference 2019*, Brisbane, 15 May 2019.

“Inferring trusts from inexplicit contracts: the mutual intention problem” paper presented to the *8th Annual Trusts Symposium* of the Law Society of South Australia and the South Australian Branch of STEP, 9 March 2018.

“Trusts, tax and transparency: new Australian reporting obligations” paper presented to the *Use and Abuse of Trusts and other Wealth Management Devices* conference jointly conducted by Singapore Management University, York Law School (Canada) and Singapore Academy of Law, Singapore 27-28 July 2017.

"Present entitlement' and 'trust estate': trusts law or tax-technical terms?", paper presented to *Trusts Law Obligations* conference, University of Melbourne, December 2013.

"Public officials, public trust and fiduciary duties", paper presented to *Fiduciary Duty, Public Trust and the Governance of Climate Change* workshop, Monash Law Chambers, Melbourne 23 November, 2009.

“Unintended consequences: International Accounting Standards”, (with Prof Paul von Nessen), paper presented to 2006 *Corporate Law Teachers’ Association* conference, University of Queensland Law Faculty, Old Customs House, Brisbane, 7 February, 2006.

“A comparative survey of tax incentives used for the promotion of venture capital investment in Spain, Ireland and New Zealand” paper presented to 2006 *Australasian Tax Teachers’ Association* conference, Law Faculty, University of Melbourne, Parkville, 30 January 2006.

“An analysis of legal structures and tax concessions used to encourage venture capital investment in Australia” (with S Barkoczy, 50%), 2005 *Hawaii International Conference on Business*, Honolulu, Hawaii, USA, 26-29 May, 2005

“Taxation of liquidation surpluses” (with J Duns, 50%), Insol International Academics Group Meeting, Sydney, Darling Harbour, 12-13 March, 2005.

“Compliance costs of the GST to small business: preliminary results based on a case-study approach” (with B Tran-Nam, 50%) 6th International Conference on Tax Administration, ATAX, University of NSW, Sydney, 15-16 April, 2004.

“The taxation priority: Australian experience and international comparisons” (with J Duns, 50%), Insol International Academics Group Meeting, Cape Town, South Africa, 2-3 April, 2004.

“GST recurrent compliance costs/benefits for small business in Australia” (with B Tran-Nam, 50%), 16th Annual Australian Tax Teachers Association Conference, Flinders University, 29-31 January, 2004.

“Tax reform in Australia: impacts on tax compliance costs” (with B. Tran-Nam, 50%) 5th International Conference on Tax Administration, ATAX, University of NSW, Sydney, 4-5 April, 2002.

“Conflicts of interest, conflicts of duty and the information professional” at ‘Law of Obligations: Connections and Boundaries’ conference, Faculty of Law, University of Melbourne, 21-22 February 2002.

“Conflicts of interest in a corporate context” Monash BLT Dept ‘Corporate Crime Workshop’, Melbourne, 13 February 2002.

“Is breach of confidence a fiduciary wrong? Preserving the reach of judge made law” SPTL annual conference (Restitution Section), University College, London 19-21 September 2000.

“Entity taxation and trusts arising by operation of law” at the 12th annual Australasian Tax Teachers’ Conference, Monash University, Melbourne, 3-5 February 2000.

“Changes in the taxation of trusts” at the 11th annual Australasian Tax Teachers’ Association conference, University of Canberra, 5-7 February 1999.

“Identification of fiduciaries” (invited paper, airfare paid and visiting fellowship at Magdalen College) at the SPTL conference: *Fiduciaries in Context*, All Souls College, Oxford, 28 September, 1996.

“Taxing the proceeds of crime: should the fruits of corruption be assessable?” (invited paper) at the *Fourteenth International Symposium on Economic Crime*, Jesus College, Cambridge, 8-13 September, 1996.

“Globalisation of banking: an Australian perspective” (invited paper) at the Institute of Advanced Legal Studies conference: *Commercial Law in a Global Context - Perspectives in Anglo-Japanese law*, Jesus College, Cambridge, 16-17 September, 1996.

“Taxing the constructive trustee” (invited paper) at the University of Cambridge, Faculty of Law conference: *Trends in Contemporary Trusts Law*, Cambridge, 6-7 January, 1996.

“Banks and fiduciary relationships” (invited paper) at the Bond University, Faculty of Law conference *Equity, Restitution and the Banking Lawyer*, Gold Coast, Queensland, 23 July

Membership of external committees

Law Institute of Victoria Commercial Law Section,
Taxation and Revenue Committee
Law Institute of Victoria Commercial Law Section,
State Taxes Committee

ATO National Tax Liaison Group, Trusts Committee
(2005-2011)

Taxation Institute of Australia, Victorian Division Education Committee
(2005-2010)

Industry Partnerships

2001-2004 – ARC (Australian Research Council)

Chief investigator *Strategic Partnerships with Industry – Research and Training* project on the effects of Ralph taxation reforms on small business (with co-chief investigator Associate Professor Bin Tran-Nam of ATAX, UNSW and industry partners National Farmers Federation, Taxpayers Australia Inc. and Council of Small Business Organisations of Australia Ltd.

2005-2006 - ARC (Australian Research Council):

Chief investigator *Linkage* project on competitiveness of Australia's regime for the promotion of venture capital investment (with co-investigator Associate Professor S Barkoczy, Monash University and industry partner Department of Industry Tourism and Resources (Com) (Policy Branch)

2016-2017 - Australian Taxation Office:

“Current issues with trusts and the tax system: Examining the operation and performance of the tax system, with a particular focus on discretionary trusts linked to high net worth individuals”, RMIT University Research Report, with Associate Professors A De Silva and K Westberg, Dr V Narayan and Dr M Nguyen.

Appendix

EQUITY RESTITUTION & FRAUD *and* COMMERCIAL EQUITY: FIDUCIARY RELATIONSHIPS

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