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CONTENTS

NOTES AND COMMENT

The Gradual Transformation of Japanese Corporate Governance — John Farrar..... 149

ARTICLES

The Seven Secret Herbs and Spices of Franchise Regulation: Some Suggested Options?

Maree Chetwin..... 151

Problems associated with the franchise structure in New Zealand raised a case for a franchise legislation regime. A Discussion Document looked at the options of maintaining the status quo, education initiatives and introducing franchise-specific legislation. Some of the possible provisions are considered and others are suggested. This article reviews the problems outlined in the Discussion Document and considers the approach that has been adopted in other jurisdictions.

What is an “Account Receivable”?

Mike Gedye..... 170

In this article, the author analyses the definition of “account receivable” for the purposes of the Personal Property Securities Act and the preferential creditor regimes. It is a narrow point but one of some importance. The definition impacts upon the scope of both the Personal Property Securities regime (because most transfers of accounts receivable are deemed to be security interests under s 17(1)(b) of the Personal Property Securities Act) and the preferential creditor regimes (because preferential creditors are payable only from accounts receivable and inventory). The author argues for a broad definition and concludes that the decision in *CIR v Northshore Taverns Ltd (in liq)* was wrong to apply a narrow definition based on the traditional concept of book debts. The status of sums recovered by a liquidator under ss 297 and 298 of the Companies Act is also examined briefly.

CONTENTS — *continued*

Legal Issues and Challenges in Online Shopping: A Comparative Analysis of Australia and New Zealand

Dr Kanchana Kariyawasam 178

This paper aims to evaluate the adequacy and efficacy of the current statutory regimes, both in Australia and New Zealand, as a means of affording various legal protections to consumers who transact their business affairs online. In this respect, this paper provides an overview of some of the legal issues and related problems involved with online shopping in Australia and New Zealand. The author argues that online consumers are entitled to be afforded the same degree of protection as all other types of consumers. The traditional legal rules may be inadequate to provide consumer protection in the digital environment, as they were created before internet shopping and online commerce were even contemplated. Better enforcement of consumer rights is vital for online shopping but while it is simply too expensive and difficult to enforce existing laws — the rights are, in effect, useless.

Privilege, Corporate Counsel, and Lawyer Independence

Duncan Webb 195

Internationally the ability of in-house counsel to claim privilege has been under siege. In New Zealand the matter seems to have been resolved in favour of in-house counsel (provided they are the holders of a practising certificate). However in this article the author identifies the significant tensions inherent in claims of privilege by in-house counsel. He also suggests that lawyers practising in house need to be more circumspect about claims to privilege. It is observed that in-house lawyers are subject to different challenges and pressures than those brought to bear on external counsel. Their role is also more diverse and more affected by the corporate context within which they practise. In-house lawyers are, however, subject to all of the same obligations as external counsel, including obligations touching on their independence and claims of privilege. The explicit recognition of the place of in-house counsel in recent reforms of professional regulation cements the status of in-house counsel as no different from that of other practising lawyers. The author concludes that there may be no special problems which are raised in respect of privilege when in-house counsel are involved, but rather that the problems inherent in the law of privilege are brought into stark relief in that context.

The PPSA: The Continued Relevance of Conventional Legal Principles in Determining the Existence of a Security Interest

Struan Scott 205

The Personal Property Security Act 1999 (the “PPSA”) implemented a number of key changes in New Zealand’s law of personal property securities. One change was the introduction of an extensive definition of “security interest” that focuses upon the substance of the transaction rather than its form. Despite this, both the distinction between ownership and security, and some conventional rules that assist in determining whether a party is seeking to enforce their ownership of personal property or enforce a security over that property remain relevant. This is the important message of the Court of Appeal in *JS Brooksbank & Co (Australasia) Ltd v EXFTX Ltd (in rec & liq)* [2009] NZCA 122. Focusing upon transactions involving the sale of goods, this article illustrates how notions of ownership and conventional contractual principles remain relevant in determining whether the transaction has created a security interest. The article also illustrates how conventional legal principles remain relevant in determining an associated issue, whether a debtor has “rights in” personal property so as to enable the “attachment” of a security interest to that property.