

Book Review

Reviewed by Melanie Little

Anthony Young, *The Advocate's Notebook*. Prospect 1997 (183pp) \$55

The Advocate's Notebook straddles between being a textbook and a practitioner's list of cases. The *Notebook* is written by Anthony Young who practised at the NSW Bar, and is his personal list of cases, his notebook of cases.

The *Notebook* sets out in alphabetical order a number of topics from 'ad-journment' to 'waiver'. Under each topic Young sets out an issue or a series of issues by the formulation of a question and then answers the question by reference to the relevant case. The case may have other reasoning of importance, but it is the aim of the *Notebook* to isolate an issue then find a seminal statement which can be used to summarise the law on that point. The *Notebook* is written using clear English. This is not to suggest the text is simplistic. Indeed, it is a model in clarity.

A series of commentaries by leading barristers adds another dimension to the *Notebook*. The commentary by Ian Barker QC has some interest for Northern Territory practitioners as he writes of some of the difficulties with advocacy in remote locations and in

particular of the need to have access to case law. David Bennett QC tells of the importance of having some familiarity with your brief and this commentary will have practitioners checking their knowledge on the law of adjournments (topic number one in the *Notebook*). Rod Blackmore and Maurice Rooney look at the adversarial system as it impacts on juveniles and John Coombs QC writes on advocacy.

There is no doubt that some of the topics contained in the *Notebook* are universally applicable. All practitioners can benefit from having access to clear statements on Headings of Statutes and Regulations. While the issue set out under this heading appears to be limited to a very specialised area of the law, it is clear from the quote that the case has far wider applicability.

By necessity, the *Notebook* cannot thoroughly cover all areas of law. Topics and issues which are applicable to one area of law (for example, family law) can only be limited to some aspects of the practice. For this reason it would be hard to place this book in the library of a specialist practitioner.

Advocates often work in a range of jurisdictions and this comment may lack relevance.

A weakness of the book is the indexing – it is not a book which would be easy to use in the heat of the adversarial moment. I would have preferred a detailed cross indexing of topics and issues. But a reading of the book and an understanding of how it is set out would provide a useful safety net in a range of situations including adjournments, interlocutory proceedings, trials and appeals.

For the Northern Territory there are limitations in the use of this book. Without knowing the relevant legislation it is not always possible to know just how applicable a case is to a question arising in this jurisdiction.

The Advocate's Notebook represents one advocate's approach to solving problems on his feet. The *Notebook* puts questions which may arise and answers them succinctly and accurately. You may elect to follow this approach. Alternatively, the *Notebook* may give you a clue as to how you can best organise case law for easy access.

High Court Fee Rise Disallowed by Senate

The proposed increases in fees payable to connection with High Court hearings, due to take effect from 1 July 1997, have been disallowed by the Senate on a vote of 35/32 with Senators Colston and Harradine voting with Labour and the Democrats.

The President of the Law Council of Australia, Peter Short, welcomed the Senate decision to disallow the proposed rise and described the decision as a "win for all Australians".

He went on to remark that "the Law Council is delighted with this decision. The proposed fees were going to impact severely on the right of all Australians to have access to the highest court

of appeal in Australia".

"The High Court plays an extremely important role in the constitutional structure of Australia, and is sometimes the only avenue by which citizens can question government - and other - decisions which impact on their constitutional and fundamental rights."

The LCA had lobbied against the introduction of a 'user pays' system in the High Court, arguing that it diminished the access of Australians to justice.

Mr Short, in a Law Week press release, suggested that community access to justice had suffered for many years from budget cuts to legal aid and

rises in court fees and, whilst understanding the desire of government to recoup in part its funding of the Australian justice system through higher court fees, voiced the LCA's opinion that some government institutions, including the courts, were simply not suited to a fair application of the 'user pays' principle.

In a letter to the Federal Attorney-General, Daryl Williams AM QC MP on the proposed rise, the LCA suggested that the government would be oppressive if it used high fees to discourage citizens from questioning the correctness or legality of government decisions.