

## Lawyers, Disney, Basten, Redmond & Ross

(Law Book Company, H.C: \$75.00; S.C: \$59.00)

**Lawyers** sounds like the title of an Auchincloss novel or a dreadful Division 10BA film. It is a book by Mr Julian Disney and 3 of his former colleagues in the Faculty of Law at the University of New South Wales. The first edition was published in 1977 and the second edition in 1986.

The primary aim of the authors was to prepare teaching materials for the Faculty's course, 'Law, Lawyers and Society.' That objective and the course title should not stop barristers going further. The authors collect a wide range of materials on the structure, composition and operation of the legal profession and link those materials with their own commentary.

There is a good deal of eye-glazing material. (The authors get in first with an observation about practising lawyers' lack of interest in theoretical developments.) I do not know what undergraduates would make of the sociological analyses of the concept of professionalism. The surveys of social characteristics of the profession probably only reinforce one's prejudices one way or the other too.

Not unreasonably, the second edition makes extensive use of excerpts from the discussion papers and reports of the New South Wales Law Reform Commission's recent inquiry into the legal profession. Mr. Disney, of course, played a major role in that inquiry. "Commissioner Disney" is cited in the collected materials. The authors adopt too the Commission's expressions. These are obsessions. The "Division between Barristers and Solicitors" becomes a whole chapter in the new edition. Much of the writing on this topic will render some barristers apoplectic. There is, however, a fair balance in the materials. The submissions to the Commission of **Yeldham J.** and **Samuels J.A.** are included.

This is not a fashionable book for the 1980s. I could not find the word "deregulation" used once, although there is much discussion of barristers' "work practices". There is only passing reference to the monopoly conferred on licensed practitioners. The regulation of the profession is, however, extensively covered and the materials even include part of an article by the Old President, Meagher Q.C.

The parts of the book dealing with the history and structure of the profession, and with entry to and regulation of the profession, may irritate some barristers. All the truly significant players get a mention from Francis Bacon to Wendy Bacon. The new Legal Profession Bill, nonetheless, makes the topics covered of vital importance. The authors do not come to grips with the challenges posed by the emergence of the new so-called "mega-firms" of solicitors. Perhaps the Bar is perceived to be an easier target?

The extensive materials on duties to clients and the duties of fairness and candour will be of practical use to all barristers. Every floor should have access to this book

for this reason alone. The materials have a special section on taxation advice post "bottom of the harbour".

The new edition is much slicker and better presented than the first. The purposeful male barrister on the cover of the first edition has been replaced by a group of thoughtful-looking barristers, one of whom is a woman. The irritating questions at the end of sections have been omitted. (No doubt, any indolent teachers will use the questions from the first edition.) There are minor errors which are perhaps unavoidable in a work which seeks to give a national coverage of practice matters. For example: Who issues practising certificates in the Northern Territory? (The Law Society, not the Master of the Supreme Court.) In what circumstances will disciplinary proceedings against a barrister be initiated by the Supreme Court itself? (See **Prothonotary v. Costello** (1984) 3 NSWLR 201). There are annoying omissions from the first edition, e.g. the cross-referencing in the introduction to the letter to the Editor of the Sydney Morning Herald from **Jacobs J.A.** (as he then was) about general practitioners and specialists, which is included further on in the materials. **Lawyers** is, however, a collection of materials, particularly Australian ones, which is unlike any other available. It is an indispensable starting point for research into the legal profession in Australia. □

Antony Whitlam Q.C.

## Commercial Exploitation of Personality by Samuel K. Murumba

(Law Book Company Limited, HC \$39.50)

The focus of this book, as the author puts it, is "unauthorised commercial appropriation of personality, likeness and reputation".

It is an interesting and very readable book, dealing with a topic of increasing interest.

The discussion and analysis of the availability of an action for passing off is dealt with in some detail, and in a well presented way.

The author also discusses and points up the limited way in which an action for defamation can be of assistance to someone complaining of unauthorised appropriation of their personality, and the like.

Sections 52 and 53 of the Trade Practices Act receive some attention from the author but not in the sort of depth that one might expect.

I believe it will be found by those with a problem in this fairly narrow area to be a useful tool of trade.

The book seems to me to have some shortcomings, however, It is based on a thesis written in 1979. One suspects that the material which relates to the post 1979 period has not been analysed in quite the same depth as was the material incorporated in the thesis. Further, the

draft Commonwealth Bill for an Unfair Publication Act, which is an appendix to the book, seems to have been added by the publisher to fill up the space between the covers so as to not make the book look too much like something which might more usefully have been published in the form of a two or three part article in a monthly or quarterly law journal.

Overall, I think it is a useful and interesting publication well worth considering for floor libraries.

J.E. Maconachie

## Medicine and Surgery for Lawyers by A.J. Buzzard and Others

(Law Book Company Limited; \$89.50)

This is a very good book which ought to be part of every floor library.

At \$89.50 it seems to me to be a very worthwhile proposition, given its content.

It is a well organised book which does suffer to some extent by having an index which I found to contain less detail than one would prefer, but it is nonetheless adequate.

It will clearly be useful to those who have practices in personal injuries and compensation law but will also be of very great use to anybody who is involved in any medical negligence work or in a whole range of other cases where medical issues arise centrally or peripherally.

An indication of the book's usefulness can be gained from the fact that it is to be found on the shelves of such people as Poulos, an astute judge of the usefulness of medical textbooks.

There are some curious features of the book; for example, there is a short passage discussing in the briefest terms the doctrine of informed consent which has engaged the English Courts in recent times, but there is no reference to cases or any discussion of it; one is merely informed that there is such a concept. One wonders quite why it was included at all.

Further, the book provides some depressing reading, depending on your particular bent. There is a chapter on the history, presentation, clinical aspects and the like of Acquired Immune Deficiency Syndrome, a short excursus on the relationship between sexual intercourse and cancer (!) and sadly, some cold hard facts on the relationship between alcohol and various unspeakable disorders. In other words, it has something to depress everyone - quite an achievement.

Overall, I found it very well written, extremely helpful, and likely to be of great benefit to lawyers in attempting to understand the mystiques of medicine. □

J.E. Maconachie

## M.L. Blakeney and J. McKeough, Intellectual Property: Commentary and Materials

Law Book Company Limited, 1987 — \$59.50 (Soft Cover)

In fields where specialist reports abound case books will always be a welcome addition to the tools of the practitioner. Intellectual property is such a field. The premier set of reports is the Reports of Patent Cases, followed, in the United Kingdom, by the Fleet Street Reports. Australia has now joined the field with Intellectual Property Reports (Butterworths) and Australian Intellectual Property Cases (CCH Australia Limited). **Intellectual Property: Commentary and Materials** by M.L. Blakeney and J. McKeough, which has just been published by the Law Book Company Limited, should, therefore, find a ready market.

The casebook follows the conventional format for casebooks, with two exceptions. Firstly, the authors' commentary is distinguished from the extracts from cases by a line drawn vertically in the margin, in much the same way as important passages are designated in Lloyds Law Reports. Hopefully, this practice will avoid the commentary being accidentally elevated to judicial status. Students and practitioners alike might also have welcomed the use of this marginal identification for the same purpose as it is used in Lloyds Law Reports. I have always found the marginal lines in that set of reports a valuable aid to quickly finding the critical passages in a case. It is surprising that the device has not been employed in other sets of reports. The second exception to the usual format is the unique feature that this casebook is an illustrated casebook. The opportunity to while away spare time or to relieve moments of boredom by looking at the pictures will undoubtedly enhance the popularity of the book. I suppose it was felt that some of the passing off cases would be more readily understood when the competing marks or get up were reproduced from the original reports. Undoubtedly this will be so. However, the opportunity for male practitioners (in any event those of my age and older) to be reminded of the trousers of their youth through the mark for Crusader cloth is probably justification enough for the inclusion of the illustrations (p371). Others will be able to amuse themselves with assorted reproductions of mounted horsemen associated with the crusader mark (p372). All practitioners will be reminded, or learn for the first time, that there once was another kind of blue bag, and see an illustration of one (p320).

The casebook covers each of the topics now included within the term "intellectual property" as defined by the **Convention Establishing the World Intellectual Property Organisation** of 14 July, 1967 (p 1). After an introduction the various categories are treated under the following headings: copyright, industrial designs, protection of business reputation, trade marks, patents and trade secrets. There is a concluding section which deals with remedies and enforcement. This section is important because some kinds or relief are peculiar, if not unique, to intellectual property. One thinks of the account of profits and "Anton Piller" orders.