

Documentary Evidence in Australia

(R.A. Brown - Law Book Company 1988 - \$43.50)

Some textbooks show at once an author whose depth of learning breathes through each page. Meagher, Gummow and Lehane on Equity is one such. A second class of textbook shows some attempt to induce some general principle or guidelines from a series of decisions. A third class is made up of books which are merely a workmanlike collection of authorities.

Brown on Documentary Evidence is in this third class though perhaps not quite.

The author is a professor of law in Tasmania. He was a lecturer in evidence at the (then) NSW Institute of Technology for some years and practised at the NSW Bar at the same time. He is however more an academic than a practical lawyer.

There is a strange trend towards academics writing works on evidence and it is stranger too to see their criticisms of a system that really one can only fully understand through years and years of practice.

When a reviewer sees that on page 1 the author commends one of these academic writers and then on page 3 attacks the approach of the Australian edition of *Cross on Evidence* as fundamentally flawed, he wonders whether it is of much use proceeding to read page 4. However, when one makes that effort, one finds a workmanlike discussion of the Business Records provisions of the Evidence Act and many of the cases decided on them. It is disturbing to see from time to time however comments indicating that the author thinks some decisions were just stupid (eg p.120 "The court insisting that the best evidence of the prices were the books themselves, although Owen, J. did note the inconvenience entailed in producing 400 volumes in Court"). Again the mention of the "jargon" developed in NSW about the "produced without penalty" rule indicates to me, with respect to him, that Dr. Brown perhaps should have had a few more years practical experience in the superior Courts before penning this book.

Despite these criticisms the work contains a workmanlike treatment of the cases. It is fairly detailed in its discussion of the Evidence Act and on computer produced records, but a little light on with respect to some other aspects. Videotapes are only briefly mentioned on p. 45 (cf *Beaton v. McDivitt* [1985] 13 NSWLR 134, 142-3) and newspapers not at all. This last comes to my attention particularly as I have just had to research this very topic for *Paton v. Public Trustee* (8 December, 1988 ED 1269/88).

It is hoped that in due course a senior barrister will tackle this subject in a published work. Until that occurs, Dr. Brown's book will serve as a useful collection of the authorities.

Peter Young □

Injunctions, A Practical Handbook

(N.R. Burns - Law Book Company 1988 - \$30.50)

The busy New South Wales practitioner is not shy of works of authority to consult on the topic of injunctions. Meagher, Gummo and Lehane adequately cover the area. But when one moves from the theoretical to the purely practical there is not much around. The standard works on injunctions

rarely stop to tell the practitioner about the more mundane practicalities of obtaining an injunction. This book by one of the most experienced equity juniors in the State aims to fill this void. It not only contains a potted summary of the law relevant to final, interlocutory, *qui a timet*, mandatory and Mareva injunctions, it also contains useful advice on drafting of summonses and affidavits, taking instructions and enforcement of injunctions. It is brief and concise and an ideal work of reference for those occasions when an injunction must be obtained in great haste. Although the experienced equity practitioner will doubtless find nothing novel in this book, it is an ideal summary for those whose trips to equity are infrequent or the barrister who has just begun practice. □

Lane's Commentary on the Australian Constitution

(P.H. Lane - Law Book Company 1986 - \$131.00)

Professor Lane has previously confined his attentions to one magnum opus (*The Australian Federal System*), a number of students books and some monographs. In this his latest foray into the area of Federal Constitutional Law, Professor Lane has produced a section by section commentary on the Constitution in the tradition of Quick and Garran and Lumb and Ryan. The commentary analyses each section of the Constitution in exhaustive detail and concludes with chapters on State-Commonwealth relations, the meaning of constitutional terms and severability clauses. However, this work of over 700 pages is far more than a bare annotation on each section of the Constitution. Indeed each case decided on each section has been exhaustively catalogued and digested much in the manner of *The Australian Federal System*.

In style the commentary is quirky, didactic, idiosyncratic and often abbreviated to the point of being ungrammatical. And yet this mode is often refreshingly direct and engaging. As the most recent and up-to-date commentary of its kind the book is destined to be a work of first reference for all who dip into this area. The commentary is kept up to date by regular supplements (the first of which has already been published).

Cross Purposes

Wheelahan QC : And do you tell this court that you have been unable to explain to your parents the concept of changing value in currency? — My father still at this stage thinks the Australian dollar is a US dollar.

That is just nonsense is not it, Mr. ? — No, I do not think so.

Your father, a man of business in this country since the late 50s, thinks an Australian dollar is a United States dollar; is that what you say? — Hard to believe but it is correct.

It is incredible, Mr....., I agree with you. Does he think that a French franc is a Swiss franc as far as you know? — Possibly.

Or a Huttons frank perhaps? — Possibly.

(*Dauids Securities Pty. Limited & Ors v. Commonwealth Bank of Australia & Ors, Federal Govt. of Australia, 2 March 1989*)