

Lewis Australian Bankruptcy Law

Tenth Edition - Dennis Rose QC
Law Book Company 1994 RRP \$49.00

The tenth and most recent edition of *Lewis Australian Bankruptcy Law*, in which the law is stated as at 31 December 1993, is the sixth by Dennis Rose QC, the Chief General Counsel of the Commonwealth Attorney-General's Department.

This work is not, nor does it purport to be, a substitute for other excellent materials available in the area of bankruptcy law, most notably the comprehensive annotations to the *Bankruptcy Act 1966* (Cth) and the *Bankruptcy Rules* in *McDonald Henry and Meek Australian Bankruptcy Law and Practice* by C Darvall QC and N T F Fernon (Fifth Edition, Law Book Company, 1977, looseleaf service). It is, however, a valuable and necessary complement to such works - necessary in that the reader, particularly one not generally familiar with this area, is liable to become lost in the mass of detailed information contained in a work such as *McDonald Henry and Meek*, unless presented with a comprehensible overview of the legislation and the policies which are reflected in its terms.

In this book Rose QC articulates and explains the principles which underlie the modern law of bankruptcy, namely the orderly and expeditious realisation and distribution of the bankrupt's estate amongst and for the benefit of the creditors, and the discharge of the bankrupt from the majority of pre-bankruptcy liabilities, thereby encouraging resort to the legislation and permitting the bankrupt to make a fresh start. An understanding of these principles is essential in order to appreciate the meaning of specific provisions of the legislation and the relationship between provisions.

This work also provides a very useful and concise guide to the practical operation of the legislation, dealing in a logical fashion with creditors' proceedings; debtors' petitions; the discovery, realisation and distribution of the property available to creditors; discharge from and annulment of bankruptcy; arrangements with creditors outside of bankruptcy; and related topics. It serves well as a first point of reference, and enables the reader to place more detailed discussions of particular provisions and concepts in the decided cases and elsewhere into a wider perspective.

The text naturally incorporates amendments made to the legislation since the publication of the ninth edition in 1990. Significant changes which came into operation in 1992 include the compulsory contribution of income by bankrupts to bankrupt estates; a new system of discharge from bankruptcy by operation of law; annulment of bankruptcy by operation of law in circumstances where the bankrupt has paid all debts in full or where creditors accept a proposal in full satisfaction; a more detailed system of early discharge; amendments to practice and procedures at meetings of creditors; a mechanism for the issue of "offshore information notices" where evidence relating to a bankrupt's financial affairs is located in a foreign country; and restrictions on overseas travel by bankrupts (these latter two reforms are referred to by some, although not the author, as the "Skase amendments").

In summary, this book is an extremely useful starting point in bankruptcy law, and one certainly worth having close at hand. It explains both the policies and the practical application of the legislation. It is written clearly and concisely, and complements other available materials. □ David R Parry

Coronial Law and Practice in

New South Wales, Third Edition - Kevin Waller
Butterworths June 1994, RRP \$19.00

Hardback "handbooks" of a jurisdiction have largely disappeared in a sea of looseleaf publications - victims of constant legislative change. This book is the descendant of a survivor and will probably thrive for the same reason as its second edition predecessor. An inquest of any substance without several copies of Waller on the bar table is rare - although most have had wads of photocopied pages of decisions and legislation that have accumulated over the last 12 years, tucked in the back. The amendments of 1988 and 1993, the impact of *Annetts v Dean* (1990) 65 ALJR 167 and the developing tendency to fight out factual issues in detail and at length in coronial proceedings, have all made a third edition very useful.

From my observation, the book is usually used as a refresher on how the Court works and thereafter as an annotated Act. But even the growing band of counsel that move like a pack from one medical or aviation inquest to the next, and who need no refresher, keep the book handy.

Much of the change is systemic (creation of the office of State Coroner) but the substantive changes do matter. The alteration to section 19 which deals with the course of an inquest when a criminal issue arises, has had day-to-day consequences in advising and appearing in inquests. Deaths in custody are now expressly dealt with in the Act. An appearing party cannot be refused a request that a witness be called, without reasons (Section 31A). The non-legislative changes have also been substantial and are reflected in the new edition. *Annetts v Dean* has changed the relationship between the bench and the bar table. The silent coroner is a thing of the past. Warning must be given, if only in address, of a possible adverse finding. The practical consequence of this change has been dialogue and the end of the "blind" address.

The New South Wales coronial system (including its forensic work) has worldwide repute. Some of that is due to the administrative changes that have occurred. Another component is no doubt the impact of Chelmsford, Deaths in Custody and a large number of recent high profile inquests. The old, brief form of inquest that was often little more than a formality, is a thing of the past. All of this is well reflected in the new edition.

However, the book is also full of little surprises. One is in the medical negligence section. In the third edition the author repeats his theory that guilt is part of grieving but his fairly famous second edition anecdote of the widow to whom he allowed an inquest to enable her to air groundless grievances has been converted to the following "... in a minority of relations, usually female, the guilt is exaggerated to the point of irrationality". If one adds the reference to "medical men" (being prone to use technical terms), it is clear that Mr Waller is no SNAG. It's hard to work out what is more surprising - the fact of such language or it surviving the editor's pen.

Despite its little surprises, the third edition is as much "the handbook" as was the second edition. It is portable (212 pages), readable and reasonably comprehensive. It is unquestionably written from the Coroner's, not the practitioner's viewpoint, but by someone with a wealth of coronial experience. If you ever use a Waller you will have little option but to upgrade. □ Jeremy Gormly