

Broadcasting Corporation (1997) 189 CLR 520. Equally, there is mention in Chapter I of the plethora of new decisions concerning the Commonwealth legislative powers contained in s51 of the Constitution. Cases such as *Victoria v Commonwealth* (1996) 187 CLR 416 (on the legislative implementation of treaties) and *Kartinyeri v Commonwealth* (1998) 195 CLR 337 (on the races power).

Chapter III contains a pithy discussion of the recent rush of decisions concerning the judicial power of the Commonwealth. As one would expect, reference is made to the important decisions of *Kable v Director of Public Prosecutions* (NSW) (1996) 189 CLR 51 and *Re Wakim; Ex parte McNally* (1999) 198 CLR 511.

Likewise, Chapter IV on finance and trade outlines the changes effected to s90 in light of the decision in *Ha v New South Wales* (1997) 189 CLR 465, whilst Chapter V's discussion on 'The States' has been expanded in line with the developments to the Cigamic doctrine as a result of *Re Residential Tenancies Tribunal (NSW); Ex parte Defence Housing Authority* (1997) 190 CLR 410.

The structure of the text is clear and in addition to the standard table of cases, the annotation has a useful table of statutes and an extremely useful table of constitutional provisions for quick access and reference.

The only criticism, and it is not perhaps the fault of the authors', is that curiously the currency of the content of the text is as at 1 January 2000. Thus nearly two years later and the book is already a little out of date. For example, omitted is any reference to *R v Hughes* (2000) 171 ALR in the chapter on judicial power.

This complaint aside, the annotation is nevertheless commendable. It will prove to be an invaluable acquisition for those who only occasionally have recourse to constitutional law in their practice and an essential complement to the constitutional libraries of those who are more conversant with this field of law.

Reviewed by Rachel Pepper.

Architects, engineers and the law (3rd edition)

By J R Cooke
The Federation Press 2001

I am not sure what to make of this book. In many ways it is good, but ultimately it may be too complicated to be useful.

When I commenced to read the book I was negative toward it, thinking it would be no more than a non-lawyers book, perhaps to be used as a text in some introductory course to the law for non-lawyers. But the book is much more than that. In the first place there are the remarkable qualifications of the author, Dr Cooke, who holds bachelors degrees in architecture and law, a masters degree in building science and a doctorate in architecture. Dr Cooke is described as a chartered architect, a solicitor and an arbitrator. The scope of the book is ambitious: it commences with an introduction to the legal system, and then proceeds to touch upon a remarkably diverse group of subjects - contract, tort, trade practices, agency and employment, damages, limitation periods, defamation, copyright and the professional conduct of engineers and architects. There is an extensive section on matters relating to particular building contracts as well as planning and environmental issues. There are even specific sections on, for example, waiver, quasi-contract and equitable estoppel.

I think the book tries to do too much: it is very detailed which is obviously the product of an enormous amount of research. The author constantly refers to decisions of courts and tribunals, not just in Australia, but cases decided in the UK, Canada and America. In fact, this probably constitutes the downfall of the book, which ultimately fails to identify principles, preferring to refer to all sorts of decisions from all around the world. In this context it is irresistible to mention that Dr Cooke cites, as authority for the proposition that foreseeability alone is inadequate to establish the existence of a duty of care in tort, the case of *Crochet v Hospital Service District No 1 476 So 2d 516 (1985)* - a decision of the Court of Appeal of Louisiana.

By trying to do too much, some fundamental things get lost. For example, although the book (which was published in

June 2001) has a section on contributory negligence, *Astley v Austrust Ltd* does not get a mention. And although issues of the availability of pure economic loss are discussed, *Perre v Apand Pty Ltd* is missed altogether. While the *Trade Practices Act 1974* (Cth) must have a significant impact on the liability of architects and engineers, the whole matter is covered in less than three pages.

For the general lawyer I would hesitate before recommending Dr Cooke's book, but it is not possible to simply dismiss it, as it does constitute, at least for a person interested in construction law, an invaluable list of decisions with a construction-bent. This is especially so in the second half of the book, much of which deals with specialist matters relating to particular building contracts - the interpretation of particular clauses and so forth.

Reviewed by Geoffrey Watson