

BOOK REVIEWS

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Australian Constitutional Law: Materials and Commentary, 6th edition

by **Peter Hanks** and **Deborah Cass**, with

Chapter 2 by **Jennifer Clarke**

Butterworths, 1999

ISBN 0 0409 31329 7 RRP \$108.51

Constitutional law is never far from controversy, and Chapter 2 of this new edition closely examines the High Court's construction of constitutional principle around Australia's indigenous peoples. The text is worth buying for Chapter 2 alone because Jennifer Clarke's analysis of a range of issues pertaining to indigenous people assists in understanding why these issues are dominating the daily media and our legal system.

Clarke examines the High Court's growing number of decisions applicable to Aboriginal and Torres Strait Islander Australians, looking at identity, sovereignty of indigenous law, land rights and associated topics. The chapter is rich in research, with an examination of English law pertaining to native peoples going back well

before colonisation, with various interesting comparisons of colonial judgments. As an example, Clarke mentions an 1841 decision of Judge Willis of the Port Phillip colony in which he expressed a view that Aboriginal crimes inter se were a matter for the "tribes" under their own law, and how this was inconsistent with an earlier decision in *R v Jack Congo Murrell* (1836) Legge 73, in the Colony of New South Wales.

At the end of Chapter 2, Clarke questions whether the Crown is a fiduciary for indigenous peoples, and she examines a line of cases from various jurisdictions on this issue.

The text does not ignore other important constitutional questions which are of current importance to Australia as a nation. Chapters 4 and 5 examine the Federal Parliament and Legislative Procedure, the latter chapter also looking at State Parliamentary procedure. In an era where small parties and independents have held the balance of power in various Australian parliaments, the procedures for resolving deadlock is of the greatest importance to government.

Complementing the chapters on parliaments and procedure are the chapters dealing with 'Limits to Legislative Power' (chapter 6) and 'The Executive' (chapter 7).

The concept of Federalism is treated at great length in this text. The logical starting point is the law regarding inconsistency because in most parts of Australia, the state and the Federal governments share power at the same time. Inconsistency has always been a fertile area for High Court decision-making, and as technology shrinks the world into a global village, the potential for conflict between the states and the Commonwealth increase.

The text also deals with economic issues, rights and freedoms and the important subject of treaty making, right, responsibilities and the growing influence of customary international law on our Constitution.

This work is an accepted tool of research, and the sixth edition adds new dimensions to a successful formula.

Stephen Coates

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Brisbane

The Drama of the Courtroom

By **Kathy Laster** with **Krista Breckweg** and **John King**

The Federation Press, 2000

ISBN 1 86287 339 9 RRP \$27.50

If you are hooked on courtroom dramas this book is for you. Though it mainly looks at courtroom movies and TV shows for their educational value, it can still serve as a movie guide for those interested in this genre.

Written with Australian legal education in mind, Laster begins the book by briefly examining how graphical illustrations of courtroom practice and procedure can benefit students. She also discusses how films with courtroom scenes can be used to demonstrate legal issues to students, encouraging them to think critically about representations of the law, legal systems and legal practitioners in popular culture.

The authors have analysed about two hundred courtroom dramas and indexed them by subject. The most popular subjects seem to be "cross examination" and "homicide". The list covers films and TV episodes from around the world. Yes, some episodes of *Rumpole of the Bailey* are included!

As well as a subject index the book has brief entries (in alphabetical order) for each movie. Each entry lists the title, year, main cast members, director, subject headings

appropriate to the movie and a summary of the plot. To assist with the location of particular scenes in each movie, the counter numbers (VCR and 16mm film) and chapters (laserdisc) are also given

Whether criminal or civil courtroom dramas interest you, this book is a useful reference tool for anyone interested in films with a legal theme. A number of different jurisdictions are covered.

Penny Jones

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The Thinking Manager's Toolbox: Effective Processes for Problem Solving and Decision Making

By **William J. Altier**

Oxford University Press, 1999

ISBN 0 19 513196 7 (HC) RRP \$45

This book examines effective thinking processes and techniques for individuals and groups. It will change the way you think – Altier presents how to do a faster, more effective job of solving problems, making decisions and planning. The majority of management failures happen because those involved do not employ effective thinking processes in tackling the problems and decisions they face.

The work is in three parts. In Part 1 'Setting the Scene', Altier discusses the importance of the thinking tools, change and the critical role that sound thinking processes play in effective problem solving. In Part 2 'The Basic Toolbox' he covers situation assessment, decision analysis, potential problem and opportunity analysis, and problem analysis. In Part 3 'The Advanced Toolbox' he explains effective meetings, ways of adapting decision analysis tools to special situations, the macro applications of potential problem and opportunity analysis. Altier completes the work with lots of charts and illustrations that clarify many of the main points.

This book is written for people who want to become more competent at problem solving and decision-making. It is a practical guide grounded in real world experience. However, it is not a book that is quick to read as it is sometimes highly technical. You have to study and think about its contents. But it is unusual in bringing structured thinking processes together with the reality that meetings are filled with intelligent people with egos. It is also unusual in allowing scope for hunch and gut feel to serve the process without taking it over.

The Thinking Manager's Toolbox is an invaluable source that belongs in the library of every manager, executive and consultant. It is a book you will refer to again and again.

Diane Cooper

Knowledge Manager

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