

BOOK REVIEWS

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Butterworths legal research guide, 2nd edn.

By **Guy Holborn**

London, Butterworths LexisNexis, 2001

ISBN 0406930236

Some readers may be familiar with *How to use a law library: an introduction to legal skills* by P. A. Thomas and C. Cope, 3rd edn., 1995. This book is the second edition of another English text on the same subject, aimed specifically at UK students doing undergraduate legal research, legal practice or bar courses.

Butterworths Legal Research Guide covers the usual basics, such as aims and techniques of legal research, textbooks and other secondary sources, legislation, caselaw, treaties and international materials, other official publications and law outside England and Wales. There is a chapter devoted to *Pepper v Hart*, a landmark 1993 case which examined the use of parliamentary materials in interpreting legislation.

For Australians this is water under the bridge as we have noted the official use of extrinsic materials since 1984, with the insertion of s 15AB in our *Acts Interpretation Act 1901* (Cth) and amendments to the various state interpretation acts. Holborn informs us that before *Pepper v Hart*, practitioners and judges did look at Hansard to confirm their views and to boost their arguments even though it could not be cited in court. It was the same in Australia prior to the 1984 amendments.

The introductory chapter provides a useful guide to readers about where to start when doing legal research. Holborn suggests that, if you can find a telephone number, you can find the law. With this encouragement, he delves deeper and leads readers to methods for finding needles in legal haystacks. Holborn emphasises the importance of people as a resource, something Australian law librarians are frequently reminded about by reading the anz-law-librarians email discussion list. He encourages lateral thinking, as it allows researchers to come up with alternative approaches when their initial attempts fail. Holborn also reminds the reader that no single source contains everything.

Each of the chapters appears to be quite comprehensive, and although I have been familiar with English legal research, I learned about many sources with which I was not so familiar. Print and electronic sources are discussed together, which is convenient.

The intricacies of UK legislation are well covered in Chapter Three and include sections on finding Acts by title, by subject and finding amendments and repeals. It would appear that Australia is more advanced than the UK in the regular reprinting of legislation by government printers or commercial vendors.

Chapter Eight is devoted to law outside England and Wales, including other jurisdictions in the British Isles (such as Ireland), as well as the United States, Australia, Canada, New Zealand, other Commonwealth countries and Europe. There is a quick reference guide and a list and index of web sites, with references to the paragraph in which they have been discussed.

This is a very useful and informative reference work for UK legal research. Readers who have sent inquiries regarding UK legal research to the anz-list should consider purchasing this in order to educate themselves and to increase their ability to assist their enquirers.

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Asking the law question: the dissolution of legal theory 2nd edn.

By **Margaret Davies**

Sydney, Lawbook Co., 2002

ISBN 0455218110

Reading legal theory texts one could be forgiven for thinking that legal theory is for academics – boring and dense, though worthy. Yet surely legal theory is for a thinking life? Were it otherwise all lawyers (instead of many) would be bureaucrats, judges would be mere administrators and everyone else would be in a very sad state indeed.

Margaret Davies has written a legal theory text for life. Of course Davies covers the traditional ground – classical common law theory, natural law and positivism – and also the areas of legal theory that are sometimes (though they ought not to be) left out, such as feminism and gender, race and colonialism, postmodernism and deconstruction.

Though on the face of it styled as a ‘casebook commentary’, this book is much more than a sequence of examples with commentary. It is an analytical narrative told from the perspective of Davies’s opinion. She does the controversial ‘un-lawyerly’ thing of expressing one

And this forbidden thing, this expressing of an opinion, this personal analysis in a realm of purported objective fact, does not trap the

discourse in subjectivity but frees the story from prescription and the sanctimony about being right – and leaves the reader sprightly, informed and with the gift of making up his or her own mind in the pursuit of justice.

And just what is Davies's opinion? That there *is* no single, universally acceptable 'answer' and we should not even expect there to be – there is only an ever-expanding variety and complexity of opinion. As Davies says at pages 2 and 3 'the really boring thing is ... to say that there is an underlying reason for things, a first cause, which explains the world' whereas 'our world is a dynamic and in many ways incoherent place, and to attempt to confine it to an analytical stasis may not only be to limit our current perception of it, but also to limit our view of what it has the potential to become'.

Davies's achievement is to persuade against a polarity of view, against a universally acceptable basis for a legal system and in favour of complexity, pluralism and context. In favour of dissent. 'How does "morality" intersect with the law?' Davies asks on page 108. 'These are some of the perennial problems of jurisprudence,' she answers, 'problems which, in practice, will have to be considered in their context ... In considering such questions we need to appreciate that we live in a society where dissent is often possible and sometimes effective'.

We do not have to be so certain and Davies does not come to a conclusion. She moves beyond legal theory as a social construct and dissolves it, not by a blind liberal pretence that positions in legal theory do not exist, but by the acknowledgement of legal theory as a multitudinous category movement that denies unitary legal theory identities and recognises the complexities in the philosophical heritage of many people.

This overarching position does not attempt to reconcile the variety but gives each a place. The reader is left with a dynamic, complex, beautiful thought fabric that can be put to many uses.

Read it. It's great.

Fleur Kreef