

# REVIEWS

## THE COURTS AND THE DOCTOR

by D.J. Gee and J.K. Mason;  
Oxford University Press, Oxford,  
1990; 200 pp. plus appendices;  
\$46.00 (paperback).

The rise of the expert medical witness in legal proceedings has been facilitated by developments in scientific knowledge and techniques which have led to greater certainty in forensic and medical science generally.

The *Courts and the Doctor* is written by authors with experience as expert witnesses. It provides potential expert witnesses with a clear, concise and informative explanation of legal processes, including the laws of evidence, court-room techniques and the presentation of expert evidence.

A central concern of the book is demystifying the legal system for medical practitioners who are daunted at the prospect of giving evidence in court. Some of the explanations (such as that of the court structure and some specific medico-legal examples) are of limited use in Australia since the book is written for a British audience. However, the discussion of the difficulties facing expert witnesses in the adversarial system and the advice given are suited to a much broader audience.

In particular, the authors point out the way that the adversarial system leads to 'an inevitable tendency for the witness to identify himself [sic] with the side that has called him [sic] and, possibly without realizing, to deliver his [sic] evidence in such a way which lends support to that side' (pp.143-4). By subconsciously preferring one side over the other, the witness may 'ignore or reject alternative possibilities'. On the other hand, while agreeing with all possibilities may 'cause the court to wonder if he [sic] has any expert knowledge or ability at all' (p.145). In addition, the authors argue that the isolation of witnesses from those 'on the other side' furthers the tendency towards partisanship. Also,

the fact that witnesses lack a broader appreciation of the facts of the case frustrates the achievement of a 'scientifically correct solution' (p.147).

This is not a book designed to explain medical law to medical practitioners. It is rather a handbook for medical practitioners who may come into contact with the legal system (as expert witnesses, or as defendants) in the course of their profession. Yet, it does have broader appeal than is evident initially. The book will be relevant to all those who are expert witnesses, not only medical witnesses. Finally, the book will be relevant to those interested in the workings of the courts generally.

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## LEGAL STUDIES FOR UNITS 1 AND 2

by Peter Alderson and Jeanne Strong, McGraw-Hill, Sydney,  
1990; 290pp; paperback \$26.95.

## LEGAL STUDIES FOR VICTORIA (Volume 1)

by Nicholas Bates and Margaret Bates; Butterworths, 1990; 564pp;  
paperback \$25.00.

Recent newspaper headlines highlighted a uniform preference in the career choices of gifted school leavers. The top three VCE/HSC students in Victoria and the top two HSC students in New South Wales, with their perfect and near perfect scores, have earned their privileged positions of picking and choosing academic and career options. All five students said they would undertake law degrees and one already had his sights set on being an international corporate lawyer! Not so long ago, at least a couple of these talented students would have chosen a career in medicine or a science-related

area. Not surprisingly, smart kids look for intellectual rigour; clever kids look for intellectual rigour and financial reward.

Just as a career in law holds a fascination for these wonder kids, so too does 'the law' fascinate many ordinary teenagers. It is a fascination that is expressed through television and video watching habits and also through subject choice at school.

Legal studies has been offered to senior school students in each of the States for a number of years. Victoria was the first to offer it as an accredited HSC subject in 1974 and all other States have done so since then; some as recently as 1990.

It is a popular subject. In Victoria this year, about 25% of Year 12 students (roughly 14 000) will undertake Units 3 and 4. About the same proportion will undertake Units 1 and 2 (Year 11) level. The courses in each of the States are similar in content and in their aims of developing an understanding of the interrelationship of law, justice and society.

The VCE Legal Studies 'study design' is primarily distinguished from its HSC forebear by its emphasis on not simply passing on to students large chunks of content, but also in developing the skills of enquiry, research and evaluation of information. This is a central pedagogical aim of all the VCE study designs and one which fortunately has not been lost amongst all the 'fine tuning' that has been occurring in recent months to placate domineering universities.

Educational publishing, seeking to meet the needs of flexible course designs, has been something of a growth industry in Victoria in recent years. *Legal Studies for Units 1 and 2* (Alderson and Strong) and *Legal Studies for Victoria (Volume 1)* (Bates and Bates) are two unambiguously titled references, recently published, which seek to meet the needs of the new VCE requirements.

Both are weighty with content, covering all the basic introductory topics relating to Unit 1 — The Individual and the Law — as well as the vast ter-