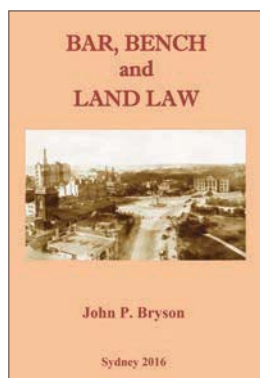


Bar, Bench and Land Law

John Bryson | The Svengali Press | 2016



All good books transport readers to a different world. The Hon John P Bryson QC does this in *Bar, Bench and Land Law*. He coaxes the reader into at least two other worlds; that of Old Australia and Plantagenet society. Bryson's aim is to commit to writing some oral history of the bar and an obscure chapter of medieval historical interest. He does both entertainingly in his unique style. It might have been called the Bryson *histories* in the sense of the old English word. It's a personal account and it is *his storie*.

Ostensibly, the book is in two distinct parts. The first part is a true personal memoir of Bryson's experience, as a young boy in suburban Sydney during the Second World War. It moves to the years when Bryson entered the legal world as a clerk and progressed to counsel and beyond.

In the second part, the text morphs into a scholarly exposition on Plantagenet land law – an area in which Bryson has a particular interest. This is a scholarly academic treatment of what forms the basis of the law of real property as we know it today. The style is simple, crisp, elegant.

Bryson takes us back to 1940s Australia. He recalls evacuation practice at his kindergarten near Bowral, and wartime life in his childhood home at Burwood. The lives of all those surrounding him were disturbed as war effort duties punctuated their

daily routine. The domestic order of the day was of restriction and deprivation. Bryson recalls Americans were exerting their power, largesse and privilege, as allies deployed in Sydney.

An impressive aspect of the text is Bryson's social commentary of those times. The social order in old Australia was distinct before the war. Bryson charts the tectonic shifts of old-fashioned pre-war social practices, to the new attitudes and the new world order. He describes a long gone world. There was hierarchy of social caste from aristocratic graziers down to ordinary working class toilers. For example, he describes the practice of 'bowing to the Matrons' at race tracks in country towns, once done upon entry to race courses in country NSW, a mystifying practice by young men to assure their social status. But everything changed after the war. There was a future of boundless possibility and prosperity. The world re-calibrated itself accordingly.

Bryson's life in the law infuses the whole text. Bryson describes in a vivid and laconic manner his life, its people and its places. It was a smaller and more intimate profession and bar when Bryson was called in 1966. These pages prove that he is a great observer of his fellow man. The vignettes and Brysonisms are comical as he recalls life at the bar. His descriptions of various people take on a Dickensian feel. Characters of the Supreme Court and the many faces who made up his professional sphere are remembered. The old judges are listed almost *seriatim*. He brings them to life as if they are caricatures in Daumier sketches. There is light and dark shading, a grimace, a stern gaze and much bemusement for onlookers.

Judges and counsel active up to the mid 1970s were a rare breed unto themselves. Bryson remembers for example Kinsella J whose 'gravity was never broken by a smile' and his tipstaff Captain Adams

whose manner was one of severe dignity, rivalling that of the judge and befitting his status as a war hero. He recalls Justice 'Jock' McClemens, who is described as 'a warm and industrious human being' and whose face was that which 'Old Masters painted on faces of cherubs'.

There is a memorable chapter 'Chief Justices in Anecdote and Fable'. One of those great personages described is Doc Evatt who was appointed NSW chief justice in 1960. Bryson remains respectful but makes no apology for capturing what Sir Maurice Byers termed 'urbane brutality' as the *modus operandi* of the Supreme Court.

Chapter 12 begins the second part of the book: a summary of antique land law dating from the Plantagenet period of English history. Bryson leads us into yet another world order – that of the demesne lands, feudal Lords, serfs, villeins, manorial courts. One's place in the social order meant everything, as did the church and state and primogeniture. The world was a violent place generally. The elucidation of ancient law and curial procedure is a rare aspect of the text.

For example, benefit of clergy became an exceptional circumstance for members of the laity, allowing an escape from the death penalty for first offenders convicted of serious crimes. The might of the church, even during Plantagenet times, was being progressively eroded. Similarly, the church's privilege of sanctuary began to lose its status as an exemption from pursuit of criminals by sheriffs and constables. It was called upon when criminals or those living in fear of being charged of crimes would take refuge or seek sanctuary in a religious house or church. All one had to do was come within the consecrated ground and touch the ring on a church door. By Stuart times it had lost all significance.

The author's deep learning of English

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history, historical literature and ancient lore make this part of the book lighter, livelier and more entertaining. Bryson's turn of phrase is beautiful.

Bryson's book is more than a memoir and a history lesson. The erudition is deep. It reviews two disparate periods of history. It is a private binding in the truest sense. In these pages lie truth and

myth intertwined. That lies at the heart of the bar's oral history. Bryson has taken time and effort to record some of that history. It is a valuable book for that alone. It records the wisdom of the ages.

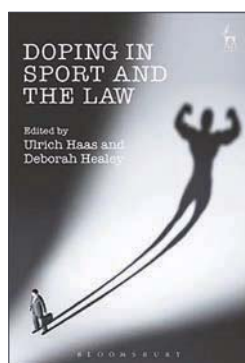
Bryson has indicated that the book was printed as a gift to friends and enthusiasts of legal folklore and history. It purports to be nothing more.

However, those who enjoy its contents are exhorted to make a donation to the Barristers' Benevolent Fund.

Reviewed by Kevin Tang

Doping in Sport and the Law

Haas and Healey (eds) | Hart Publishing | 2016



The World Anti-Doping Code (code) and its related rules were implemented in 2004. Through an amalgam of contract law, legislation and international treaty, they create a legal framework for dealing with doping in sport.

The code was born from the growing disquiet in the sporting world in the mid-1990s that drug cheating was causing irreparable damage to the reputation of major sporting events such as the Olympic Games and the Tour de France and undermining the intrinsic value of sport which, David Howman, the chief executive of WADA recently described as

...the celebration of the human spirit, body and mind, and is characterised by values such as ethics, honesty, respect for rules, self-respect

and respect for others, fair play and healthy competition. If sport is void of these rules (and others) it might be argued that it is no longer sport.

This work was written against the background of the many national and international controversies over the last few years, including those involving Australian cyclist Lance Armstrong, the baseballer Alex Rodrigues, the Australian Football League (AFL) and the National Rugby League (NRL).

It consists of a series of papers by lawyers and academics grouped under the following themes: Part I, the Evolution of the Code; Part II, the Code and the Athletes; Part III, Procedural Questions concerning the Code; Part IV, Obligations and Liability under the Code; and Part V, Governance and Compliance Issues under the Code.

In Part I, Professor Ulrich Haas of the University of Zürich considers the 2015 redraft of the code in detail. He opines that despite extensive consultations with stakeholders paradigmatic change was minor. He addresses the contentious issue of cannabis testing, controversies relating to fault and suspension, the treatment of contaminated products, and the

problematic area of disciplining support personnel.

The contributions to Part II of the book includes a chapter written by Dr Tom Hickie, barrister and adjunct lecturer at UNSW, which critically examines the code in the context of recent doping scandals involving professional football in

It is a must read for lawyers wanting to know more about the code and the complex web of legal and social considerations surrounding its enforcement.

Australia and the Lance Armstrong case, noting that the Draconian nature of the code means that fault does not have to be proven for an infringement to occur. In Chapter 4, Alan Sullivan QC analyses the seminal role that contract law plays in the regulation of doping under the code. He discusses the extent to which the 2015 code operates as a contract and between whom including difficult issues of privity of contract.