

**T Blackshield, G Williams and B Fitzgerald, *Australian Constitutional Law and Theory: Commentary and Materials*, Sydney: The Federation Press, 1996.**

As the authors of *Australian Constitutional Law and Theory* recognise in their preface, the High Court's rapid and fundamental changes since the 1980s will mean a difference to the way Constitutional Law should be taught and studied. For example it is now not nearly enough to appreciate the freedom of communication and movement as embodied in s 92 of the Constitution. Students must now understand the implied freedom of political communication in light of recent judicial discussions of representative democracy. Blackshield, Williams and Fitzgerald have taken the High Court's progressive lead and produced a text which is dynamic and refreshing. The result is a welcome addition to student texts in this area.

*Australian Constitutional Law and Theory* is perhaps best described as a comprehensive compilation of materials. Included are not only the standard cases and legislation but extracts from books, journal articles, reports and even parliamentary debates. Thus the student can read the relevant judicial material in conjunction with its theoretical underpinnings without moving from her desk. These diverse materials are commendably organised. There is both a detailed table of contents and a comprehensive index. Further, included is a full text reproduction of the *Australian Constitution* plus the *Statute of Westminster* 1931 and the *Australia Act* 1986 in the text's appendices.

The text is divided into ten parts and twenty five chapters. Part One begins with an introduction to constitutionalism. It defines fundamental concepts and details British and Australian constitutional history and Diceyan theory. What is perhaps most interesting is Chapter Three, *Theoretical Approaches to Constitutional Understanding*. This chapter truly separates this text from others in its league. It details such theoretical approaches as liberalism, republicanism, feminism and post modernism and relates these often difficult concepts to Australian constitutional theory succinctly and with clarity. The text then moves on to consider the standard areas of federalism, legislative powers and the role of the executive. This is not to say that a consideration of constitutional theory ends after Part One. To the contrary, it has been successfully integrated in to the bulk of the work. The authors' commitment to the theoretical is evinced by their choice of further references which conclude each chapter. These provide an invaluable fast reference source for assignment work and further study. Similarly, the authors have included helpful questions in the notes following the cases. Again these questions are useful for further study and for revision because they often serve to position the case material within the broader context so vital to an understanding of constitutional law.

The choice and length of case extracts appear to be standard, and are

much the same as in Hanks, *Australian Constitutional Law; Materials and Commentary* for example. There are a few instances in which the chosen extract fails to lead directly to the point. However this may be symptomatic of the judgment itself rather than the authors' choice. Blackshield, Williams and Fitzgerald's text, unlike Hanks, uses extensive sub-headings to highlight its main points. This is especially welcome when reading late at night. However, it is in this regard that Hanks may be 'one up' on this text. The case material is in bigger and seemingly more bold print in Hanks than Blackshield et al.

Returning to the topic of freedom of political communication, it is unfortunate that the recent cases of *Langer v The Commonwealth* and *McGinty v The State of Western Australia* have already rendered a substantial portion of the text out of date. Chapter 21 which considers the 'Widening Scope of the Implied Freedom' is, in light of these findings, now more than somewhat questionable. Notwithstanding, it is an otherwise thorough treatment of Australian constitutional discourse. The language is concise and the subject matter expansive. In sum, the work is deserved of its emerging popularity and is recommended to students studying constitutional law.

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