

length with *Gleeson v. Williamson*² (pages 179-180) and then in Chapter 6 at page 195, Mr Hanks discusses the same case in similar terms, but without any reference to the earlier chapter.

This book is, throughout, clearly written and easy to read: the publishers are also to be congratulated on the attractive presentation. The only matter of style which this reviewer found confusing was the habit of citing some cases in the text and others in footnotes. For example, a passage on page 90 is set out as follows:

Thus hire-purchase statutes have been restricted to agreements entered into within the enacting State.¹¹⁰ Likewise workers' compensation statutes have been confined to "employments" within the enacting State: *Mynott v. Barnard* (1939) 62 C.L.R. 68 at 91.

Footnote 110 refers to *Kay's Leasing Corporation Pty Ltd v. Fletcher*.³

This book is commended to all those interested in the Conflict of Laws or in Australian Constitutional law. It provides a clear, concise and accurate account of the way in which federation has impinged upon the general rules of Private International Law applicable within Australia, but all too often it does not provide solutions for the problems raised, or the authors' own views on the direction which the law might take.

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The Constitution of the Commonwealth of Australia Annotated by R. D. LUMB, LL.B., LL.M. (Melb.), D.Phil. (Oxon.); Reader in Law, University of Queensland and K. W. RYAN, B.A., LL.B. (Qld), Ph.D. (Cantab.); Professor of Law, University of Queensland. (Butterworths, 1973), pp. i-xxxii, 1-400. \$21.00. (ISBN 0 409 37880 1).

As little as a decade ago, the range of texts available to those interested in the study of Constitutional Law was sparse indeed. Since that time, the position has improved considerably with major texts in the field by Sawyer, Howard, Lane, Fajgenbaum and Hanks, and a number of excellent more specialized writings from other authors. Whilst it is far from true that there is an embarrassment of riches in this area, the entry into the field by Dr Lumb and Professor Ryan with their text *The Constitution of the Commonwealth of Australia Annotated* prompts the question whether their exposition of Australian Constitutional Law adds usefully to the material now available, or whether it merely duplicates material otherwise available. The short answer in the reviewer's opinion is that, within the limits the authors have set themselves, this book should prove a serviceable addition to the literature.

² (1972) 46 A.L.J.R. 677.

³ (1964) 116 C.L.R. 124.

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The object of the book is, as the authors put it, to elucidate the Constitution section by section, so as to aid not only practitioners and law students, but also students in related disciplines and those associated with government. To write intelligibly for readers other than those closely involved with law is to commit oneself to an exposition somewhat less specialized than otherwise would be the case. While lawyers themselves may wish for greater analysis at times, it must be said that the authors have succeeded in producing a text which should be comprehensible to the reasonably informed lay reader, whilst providing basic information required by a legal practitioner or student who seeks a starting point for exploring the ramifications of particular sections of the Constitution.

It is, in fact, the resort to section by section annotation that provides this book with its greatest justification. Necessarily, it stands in the shadow of the primal constitutional work, that of Quick and Garran's *Annotated Constitution*, as the authors themselves acknowledge. Indeed, where appropriate, they frequently return or refer to that text for elucidation of the views originally held about certain parts of the Constitution. But it would be fallacious to regard the authors as having written a latter-day, up-dated and refurbished Quick and Garran. Their debt to that great text is by way of acknowledgement that it still remains a reliable guide to those many areas of the black letter provisions in the Constitution on which the Courts have shed no illumination.

The book is not, however, solely given to commentary on the provisions of the Constitution. In the first place, there is an Introduction occupying 23 pages, which, for those largely unacquainted with the background and concepts of our peculiarly federal system of government, provides a useful sketch of the history and analytic features of the Constitution, and the polity it has created. In fact, perhaps it goes beyond what one normally considers introductory comment in that it covers in a short compass a wide compendium of constitutional data from the movement to federation, through such matters as interpretation of the Constitution, to proposals to alter the Constitution arising from reviews in 1929 and 1959. In itself the Introduction gives a thumbnail sketch of some assistance to the uninitiated or those returning to the study of Constitutional Law.

At the other end of the scale, the book contains two appendices, one setting forth the text of the Constitution, and the other entitled "Recent Acts and Bills". The inclusion of references to, and some analysis of, recent (1973) legislation proposals "of considerable significance" (such as the Pipeline Authority Act, 1973 and the Privy Council Appeal Abolition Bill) and to other constitutional developments (such as the Constitution Convention) represents a brave attempt to give a degree of contemporaneity to the text. This is probably commendable in its intention, but as the future so rapidly becomes the past, this should prove to be dated before very long. It may have a residual use as a reminder that the era of the Whitlam government represented a time of some constitutional ferment.

Turning to the main substance of the book itself, the commentary on the Constitution commences with the Preamble and finishes with section 128 concerning alteration of the Constitution. This occupies some 336 pages. The material is divided into chapters corresponding with the actual division in the Constitution itself.

By expounding the Constitution from start to finish the authors are spared the problem of deciding the sequence to be followed in presenting the contents of their work. This still leaves unresolved the depth to which the questions surrounding the various constitutional provisions are to be explored. Of necessity, the depth of analysis must be arbitrarily determined. Whilst the specialist constitutional scholar may protest that the authors have been insufficiently exhaustive in their approach, it can be said that they seem to have arrived at a level of treatment that should prove satisfactory to the general student. What deficiencies there may be are remedied in many respects by adequate references, in footnotes to further materials, particularly in the case of relevant legislation. In most cases this should be enough to fill out the picture. Even in respect of footnotes, the authors appear to have achieved a judicious selection of relevant matter without losing the reader in a welter of peripheral references. On occasions one may feel inclined to suggest that a major reference may have been omitted, as for example this reviewer felt about some of the older material available in relation to the foreign affairs power under section 51(xxix) of the Constitution. However this comes down for the most part to a matter of personal disposition, and hardly forms a proper basis for criticism.

With respect to general treatment of the individual topics, one likewise has occasion to wish, or think, some particular point might be mentioned or developed. Two minor but reasonably topical examples may illustrate this. First, the reviewer searched without success the notes on section 15 dealing with casual vacancies in the Senate to discover when an election to the Senate is regarded as having commenced. Secondly, in reading the general notes about section 51, and in particular comments on the *Pay-roll Tax Case*¹ (pages 72-73) the reviewer was inclined to think that some mention could have been made about the extent to which the High Court remains divided about the propriety of taking possible implications into account as a method of interpreting the Constitution. This problem would seem to leave the ultimate status of the rule in the *Engineers' Case*² still under some shadow. Here again, in fairness to the authors, points such as these hardly detract from the general utility of the book, and tend to reflect personal inclinations.

On the other hand, the strength of the book as a useful source of primary constitutional facts can be illustrated by the treatment given to "the seat of government of the Commonwealth" in the notes upon

¹ (1971) 122 C.L.R. 353.

² (1920) 28 C.L.R. 129.

section 52 of the Constitution. In short compass (pages 191-192) the authors manage to get across quite a number of pertinent facts on the subject.

By way of another topical example, the section of the book dealing with sections 128 (alteration of the Constitution) proves generally adequate to cover another recent development, that of the revived interest in secession in Western Australia. One wonders whether a footnote reference might have been included to the case of *Madzimbamuto v. Ladner-Burke*³ on the possible legal effect of unilateral secession, or as the authors put it, "indigenous" amendment of the Constitution.

Clear errors are relatively few. One noticed by the reviewer occurs at page 352 where the authors assert that the smaller island territories are "ruled" (not really an appropriate expression) by administrators advised by local officials and councils. This is not entirely correct. Norfolk Island alone has an administrator and a council, Christmas Island an administrator alone, while the Cocos (Keeling) Islands Territory has only an Official Representative. The other island territories, being uninhabited, have no such officials.

On some points, the book, although not long off the press, is already left behind by recent constitutional developments. Thus to the two double dissolutions of Parliament instanced in regard to section 57 of the Constitution, a third must now be added. Again, whilst the book manages to include the case of *King v. Jones*⁴ concerning the right to vote of "adults", the challenge mounted on the basis of section 24 of the Constitution to the method of returning members to the House of Representatives will have to wait for a later edition of the book. The same will apply to the litigation challenging government grants to independent schools that will finally give some indication of the scope of section 116. In these matters above all, the simple truth is that in a time of heightened constitutional volatility, events have overtaken the text sooner than the authors would have hoped. Faced with such rapid change, they might have preferred to have written at a time of greater tranquillity. Yet overall it is only a small portion of the book that has suffered unkindly in this way. In like manner the authors cannot be criticised in respect of amendments to legislation that have been made since the text was settled. Thus whilst they have been able to cite the Parliamentary Allowances Act 1952 in terms of the 1973 amendment to it, they apparently did not have the opportunity to include the 1973 amendment to the Parliamentary Retiring Allowances Act 1948.

One commendable feature of the book is its verbal clarity. Although the text proceeds inexorably to add one point to another in surprisingly short spans of writing, this is not done at the expense of convoluted or excessively qualified prose. One may have to concentrate closely to get

³ [1969] 1 A.C. 645.

⁴ (1972) 46 A.L.J.R. 524.

the full measure of each paragraph, but it is rare that one is left in confusion as to the meaning.

As with cake, the ultimate test, of course, is how the book stands up when subjected to consumption. Those who seek a profound and complex constitutional analysis will perhaps be left unsatisfied. This book was not meant for them. But for those who seek an easily digested, ready access to constitutional data, Dr. Lumb and Professor Ryan have come up with a book to meet their needs. It could prove to be a mini-Halsbury of Australian Constitutional Law.

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