

The writing is clear and forceful. Thus, the High Court of Australia is taken to task for its treatment in *Time-Life International (Nederlands) BV v. Interstate Parcel Express Co. Pty Limited*<sup>11</sup> of the liability of a local importer of a book who claims under a chain of title that goes back to the foreign copyright owner but which does not include the local exclusive licensee. And there is much wit. Why wit is seen by many lawyers as inappropriate to legal writing is a mystery. Is it thought that ponderous expression will be taken as indicating profundity of thought? Here at last is an English text book which glides elegantly and epigrammatically to the heart of the matter. Of course, one can't expect everything. The contraction of English vision, so apparent in recent times, affects even these authors. Who else but the English, locked into Europe, could look out to announce (at page 383) that Australia is a country "to whom (*sic*) international trade is comparatively unimportant"? And what will Victorian lawyers make of the assertion (at page 418) that "*Pollock v. J. C. Williamson* [1923] V.L.R. 225" is a South African decision?

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*Cases and Materials on Industrial Law in Australia*, by R. C. McCallum and R. R. S. Tracey, Butterworths, 1980, xxviii + 652 pp. (including index). \$45.00 (hard cover), \$34.50 (limp.).

Books of cases and materials on various branches of the law have now become common in Law Schools. Even so, their usefulness, and their legitimacy, can still be the subject of debate. Their supporters say that they are almost indispensable for teaching by the case method (a method available only to those Faculties fortunate enough to have sufficient staff to teach in the small groups so essential for case method instruction); that they free students from time consuming clerical work and free them for intellectual activity; and that inadequate library facilities make them the only practical way to see that students have some access to the contents of the law reports. Detractors of case books might argue that they "spoon feed" students and that they deny them essential research experience in locating, wrestling with and digesting cases for themselves. (A judge also recently complained to the reviewer that case books were being misused, in that new practitioners were quoting from them in court, instead of from the law reports. The misuse is clear, but the fault, if any, lies with the branch of the profession responsible for the practitioner's practical training). The form and content of these books is also contentious. Should they

<sup>11</sup> (1977) 138 C.L.R. 534.

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contain text and comment, as well as cases? Should they be of the concise digest form, or should they quote from judgments extensively or even in toto? The answers to these questions are determined to a large extent by the purposes for which the book is intended and the use to which it is put. Thus, a digest form enables many more cases to be dealt with in a given space and leaves the lecturer more freedom in shaping his course. The digest can concisely give the facts, issues and *ratio* of a case. It is very good for exhibiting the reasons why a court made a particular decision, but almost useless, by itself, for showing the reasoning which lead to those reasons. On the other hand the book which sets out almost whole judgments is a useful vehicle for teaching legal reasoning and technique, but often can not cover all the cases desirable for a complete course. Sometimes it may be only marginally more useful than sending the students to the library.

It is obvious from their work that McCallum and Tracey have thought carefully about these and related problems and have come up with reasonable and defensible solutions. Provided that their particular solutions meet your needs and that you accept the book for what it is and do not expect it to be what it is not, then the work is excellent. The book is a successor to that published in 1973 by Glasbeek and Eggleston and is still the only such collection in Australia (although it is believed that two more are in preparation). Actually it is more than a collection and to describe it simply as cases and materials on industrial law is to misdescribe it. For it contains narrative text, problems for discussion and notes and questions, besides the actual extracted cases. It is really an integrated and structured syllabus and course on industrial law, doubtless owing much of its form and content to courses taught by the authors.

The work consists of two parts; the first, consisting of 15 chapters, deals with the system of industrial regulation. The second, consisting of 14 chapters, covers industrial injuries. Topics covered in part one include the federal system, the contents of a federal award, parties to and ambit of a federal award, the "industrial" requirement, national wage decisions and some trade union law. Part two covers such things as negligence, breach of statutory duty, course of employment, causation and workers' compensation. These matters comprise a sensible course in industrial law, although not the only possible course either as to content or emphasis. Students coming to the book having already done courses in federal constitutional law or torts may find that some of the material duplicates what should have been done in those other courses. It is possible to excise a chapter here or there without doing too much violence to the integrated scheme of the book, but lecturers should be cautious in trying to pick and choose for their purposes from among the cases within a particular chapter, or in trying to omit too many chapters. As mentioned earlier, the work is more than a collection; it is a course and, to some extent, needs to be used as a whole

or not at all. Its utility in a particular faculty or department will therefore depend in no small measure on the content and order of other courses in the curriculum, as well as the content of the department's industrial law course. In other respects, the book may need supplementation for a given course. Thus, although a number of chapters are devoted to workers' compensation, a lecturer in New South Wales might find it necessary to refer to rather more decisions of the courts in that State, perhaps at the expense of some of the Victorian material. Also the book does not set out to deal with labour law, so that a course which contained a component on, say, the employer/employee relationship (as many do) could not look to this work for many cases. That is not intended as a criticism of the book for failing to do something it does not claim to do; it is another illustration of the fact that it needs to be used with discernment.

Industrial law touches on aspects of constitutional and criminal law, torts and contracts, as well as its strictly industrial aspects. There is therefore a wealth of material from which to make a selection for a collection of cases and materials and no two authors would be likely to make the same choice. Some of the principles can as well be illustrated by one group of cases as by another. There are therefore some cases which the reviewer would have omitted, or dealt with briefly, and others he would have included. But this is of no consequence. McCallum & Tracey have made a careful selection in which the reviewer detected no major omissions. There is, however, one error in paras. 13.28 *et seq.*, where the authors proceed on the basis that an Imperial Act of 1825 — 6 Geo. 4, c129 — is still in force in New South Wales. This act was repealed so far as it was in force in New South Wales by the Imperial Acts Application Act, 1969, s. 8(1).

Having selected their material, the authors adopt a flexible approach to the way in which it should be extracted. Some cases are dealt with in a concise, digested way; others, those considered more important, are less condensed, and extensive extracts from the judgments are reproduced. The reviewer would have thought that some of their longer extracts could have been condensed with no disadvantage. But, like the selection of material, that is probably no more than a reflection of personal taste or teaching method.

One annoying deficiency is the difficulty in ascertaining precisely how many and which cases are extracted in the text. This arises because the table of cases lists all cases referred to in the book and in the extracts without indicating (for example by bold type) those which are actually extracted, as distinct from those which are merely cited or mentioned in passing. A rough count suggests that some 140 or so cases are actually extracted in varying degrees of detail. The book also appears rather crowded. But case books seem unnecessarily long (this one is over 600 pages) and devices to reduce size and cost to the

student are necessary; so one must accept that too spacious a layout is not feasible. One further page could have been saved with no great loss to literature by omitting Mr. McCallum's anecdote and poem on pp. 14-15. Still, I suppose one can allow an author a literary indulgence of one page in 652.

In summary, this book is more than a collection of materials. It is a cohesive and well presented course in industrial law; but it is not the only possible course. If the content and emphasis of the course with which the reader is concerned closely corresponded with the content and emphasis in this book, the work should prove a useful and stimulating aid. But it does not seem to be intended as a general case book, and should not be expected to lend itself easily to adaptation to other ends by a lecturer.

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*Cases and Materials on Real Property*, by P. J. Butt, G. L. Certoma, C. M. Sappideen and R. T. J. Stein, The Law Book Company Ltd., 1980, xlvi + 667 pp. (including index). \$46.00 (hard cover), \$32.50 (limp).

The Australian history of casebooks, or more accurately books of cases and materials, is confined to the period since the end of World War II. It was only in the late 1940's that the American influence on Australian legal education began to manifest itself.

At the foundation meeting of the Australian Universities Law Schools Association (as it then was), held at the University of Sydney Law School on the 5th and 6th June, 1946, the meeting expressed itself as favourable to the preparation of casebooks with an emphasis on Australian cases and Geoffrey Sawer (later Professor) was invited to prepare a draft scheme for a casebook on Australian constitutional law.<sup>1</sup> In the discussion which took place year after year about teaching methods, the topic of casebooks was a constant item. There were clashes of opinion between those content with the still pervasive English (particularly Oxford) influence and those favouring the more probing American method. Some still thought it preferable to teach by lectures and compulsory tutorials and that the emphasis should be on an "academic" rather than a "professional" training.<sup>2</sup>

Then in 1951 Professor Zelman Cowen (now His Excellency Sir Zelman Cowen, Governor-General) raised urgently the question of casebooks, "as a means of avoiding wear and tear on law reports". A

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<sup>1</sup> Tarlo, "Law Schools and Law Teachers in Australia: 1946-1974" (1975) 9 *U.Q.L.J.* 26, 27.

<sup>2</sup> *Id.* 28.