

requirements of a valid marriage are and how the existence of a marriage might be proved. The Act itself does not define what a 'marriage' is, and consequently, reference is made in the book to judicial decisions in which the concept of what a marriage is in law, is dealt with. The reader will also find reference to various sections of the Marriage Act 1961 in the discussions on the formal validity of a marriage.

The remaining chapters deal with the following subjects: 3, Marriage Counselling and Reconciliation; 4, Courts and Jurisdiction; 5, Dissolution of Marriage; 6, Annulment; 7, Welfare and Custody of Children; 8, Financial Provisions; 9, Overseas Orders; 10, Injunctions, Enforcement and Procedure.

In the last chapter reference is made to a number of the Family Law Regulations 1975.

In my view, the book is a very useful one. It does not only provide a guide and an introduction to the Act, but it can also be described as a concise book of reference on Family Law as it now is. The reader will find in the text citations of a number of reported decisions. For most practical purposes these citations will be found to be an adequate selection of case material for the purposes of argument or advice. For the more difficult problems, they provide a good starting point for further research.

Most of the contested litigation in the future is likely to be concerned with disputes over the custody of children and financial provision for spouses. These subjects have been treated quite fully. It remains to be seen whether the author's hope that matrimonial conduct will play only a minimal part in decisions on custody, and no part in decisions on financial provision for spouses, will be fulfilled.

One other feature worth noting is that the book contains a well ordered and comprehensive index and this, in my view, is a most helpful feature in a reference book.

The Family Law Act 1975 has made many profound changes in the content and administration of family law. Few legal subjects have as widespread and immediate a connection with the lives of citizens or are as of frequent concern to the profession as Family Law. Professor Nygh is to be commended for providing at so early a time a competent commentary on this new law.

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Declaratory Orders, by P. W. Young, (Butterworths Pty Ltd, Australia, 1975), pp. i-lxiii, 1-205. Recommended Australian Price \$12.50.

In 1945 in *Toowoomba Foundry Pty Ltd v. Commonwealth*¹ the High Court dealt with an application for a declaration that the decision of a statutory board was a nullity. The action was brought against the Commonwealth and not the board and the Court held that the remedy had been sought against the wrong defendant. Latham C.J., in a judgment with which McTiernan J. agreed, offered an additional reason for the decision. His Honour said 'that the cases have never gone so far as to allow the decision of an independent tribunal acting under a statute or regulation to be challenged in an action claiming only a declaration that the decision is invalid.'²

There can be no doubt that in 1945 there were few precedents to support the use of the declaration as a supervisory remedy over the decisions of statutory tribunals. However, in the years that have followed there have been a number of significant changes in the law which have led to the emergence of the declaratory judgment as the most convenient remedy available to the citizen who wishes to challenge the

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¹ (1945) 71 C.L.R. 545.

² *Ibid.* 571.

decisions of such tribunals,³ Mr Young's work is therefore most timely. He traces the development of both case and statute law and then proceeds to deal in detail with the numerous situations in which declaratory relief is available. There are chapters on Public Law, Administrative Review, Review of Judicial Decisions, Contracts, Conveyancing Matters, Leases and Mortgages, Master and Servant, Companies and Unincorporated Associations, and Crime and Tort. Each chapter is divided into numbered paragraphs. In the chapter on Public Law, for example, paragraphs are devoted to the constitutional validity of federal and state Acts, the rules of private bodies, trade unions, universities, church mergers, and so on. This form of presentation is becoming increasingly common. It has the advantage of facilitating easy reference for the hardpressed practitioner but it also militates against fluency and depth of analysis of concepts and cases. To some extent Mr Young overcomes these problems by including additional chapters dealing with the future development of the law on declaratory orders and the relationship between the declaration and other remedies.

Of particular interest is the suggestion that following the decision of the New South Wales Court of Appeal in *Dickinson v. Perrignon*⁴ declarations are an alternative to the writ of mandamus and that in view of the technicalities which surround the granting of mandamus, declaratory orders can be expected to take over the area previously occupied by that writ. Similar predictions are made in relation to the writs of certiorari and prohibition. There are many lawyers who hope that these predictions will prove correct. If they are, the book is destined to appear on the shelves of most practising lawyers.

Two other matters warrant mention. The first is that the value of the book is enhanced by extensive references to the decisions of courts in other Commonwealth countries, South Africa, Ireland, and the United States. The second is the appropriateness of the choice of Sir Laurence Street, Chief Justice of New South Wales, to write a preface to the work. No other Australian judge has done as much as His Honour to establish the jurisdiction to make declaratory orders as the 'large and most useful jurisdiction'⁵ it has recently become.

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Cases and Materials on Equity, by J. D. Heydon, W. M. C. Gummow and R. P. Austin, (Butterworths Pty Ltd, Australia, 1975), pp. i-xxx, 1-398. Recommended Australian Price \$15.00.

This casebook which follows a number of recently published texts dealing with principles of Equity, serves as yet another reminder that Equity is not concerned solely with trusts and the administration of estates; it recognizes and meets the day to day needs of the commercial community, something which the Common Law and even the Law Merchant did not always do.

The book consists of a collection of cases, comments and questions relating to the various principles of Equity. It also contains criticisms of approaches taken by some of the Judges in the application or interpretation of those principles, most of such criticisms being constructive whilst others are somewhat exaggerated. The comments are, in the main, thought provoking, yet there are passages which raise issues that

³ See e.g. *Barnard v. National Dock Labour Board* [1953] 2 Q.B. 18; *Vine v. National Dock Labour Board* [1957] A.C. 488; *Pyx Granite Co. Ltd v. Ministry of Housing and Local Government* [1960] A.C. 260; *Ridge v. Baldwin* [1964] A.C. 40; *Forster v. Jododex Australia Pty Ltd* (1972) 127 C.L.R. 421; *Dickinson v. Perrignon* [1973] 1 N.S.W.L.R. 72.

⁴ [1973] 1 N.S.W.L.R. 72.

⁵ *Sterling Nicholas Duty Free Pty Ltd v. The Commonwealth* (1972) 126 C.L.R. 297, 305 per Barwick C.J.

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