

## BOOKS NOTED

*Digest of The English Law of Trusts* by George W. Keeton and L. A. Sheridan, (Milton Professional Books Ltd, Oxford, 1979), pp. i-lviii, 1-352. ISBN 0 903486 504.

*Digest of The English Law of Trusts* by Professors Keeton and Sheridan purports to set out that law 'in 205 sections, as might be found in a code, the sections being generally accompanied by explanatory notes and illustrations drawn from decided cases'. This book will provide a source of intellectual stimulation for readers already having a general knowledge of the law of trusts. For as the authors, both men of great expertise to whom all those interested in equity jurisprudence owe a considerable debt, suggest, the reduction of a complex mass of legal propositions into the form of a lucid and accurate code tests one's comprehension of rules and the principles and policies behind them. But having acknowledged this, one must query how much value this book will be to busy practitioners seeking quick answers to specific problems or, at least, an overview of a particular topic in the law of trusts together with a collection of all relevant authorities. The Digest is necessarily too cryptic to meet these needs. Again, it would not seem an appropriate work for prescription for students endeavouring to develop an understanding of the evolution of general equitable principle through a study of the cases. One wonders, therefore, what general readership the Digest is expected to attract. In the pages of the Digest the authors cross-reference their own works extensively. Perhaps the key to the utility of this work lies in its use in conjunction with other of the books of Professors Keeton and Sheridan.

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*Ideas and Ideologies: Justice* edited by Eugene Kamenka and Alice Erh-Soon Tay, (Edward Arnold, London, 1979), pp. i-viii, 1-184. Price \$12.95. ISBN 0 7131 6177 9.

*Justice*, edited by Professors Kamenka and Erh-Soon Tay, contains seven stimulating papers which formed the nucleus of the 1977 programme on 'Theories of Justice in and for the Second Half of the Twentieth Century'. As the editors note the second half of the present century has witnessed a fundamental debate about the practical requirements of justice. It is against this background that the essays here presented must be read, all of which are concerned, in differing ways, to examine the tendency to blur the distinctions between formal and natural justice, between lawyer's justice and social justice, and between justice itself and other ethical issues.

Several essays deserve special mention. In 'What is Justice' Professor Kamenka argues that justice is more 'a way of doing things' than an 'end-state' and therefore necessarily contains reference to that which is historically conditioned or social. Theories of justice and institutions of law are human constructs; conflict over these values is therefore inevitable and a 'set' or uncontested conception of justice is

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elusive. Professor Passmore in 'Civil Justice and its Rivals' distinguishes between opposing conceptions of justice — civil justice and communal justice, formal justice and social justice — defending the place of civil justice against the encroachment of social or distributive justice. We must protect the notion of treatment proportionate to competence, he argues, against reparative social justice. In a similar vein Professor Stone insists that equality and justice are not the same thing. Popular concepts of 'fairness' or 'equality' are ambiguous and indeterminate; they obscure the 'real tasks basic to the doing of justice', namely the explication of differences between human beings which are relevant to making justifiable discriminations between them. Drs Ferenc Feher and Agnes Heller criticize the 'spectre of egalitarianism' from a Marxist perspective, arguing that the 'abolition of alienation' cannot be achieved through a blanket abolition of private ownership, which merely serves to increase the power of the state vis-à-vis the individual. Justice will be a continuing problem in any society, as social conflict is unavoidable.

In other essays Professor Brian Barry contemplates the problems of international justice, Professor Alice Erh-Soon Tay defends the responsiveness and flexibility of the sense of justice in the common law, and Professor Wieslaw Lang counterposes the Marxist idea of justice with contemporary liberal theories of justice.

GRANT PARSONS\*

*The High Court and the Constitution* by Leslie Zines, (Butterworths, Sydney, 1980). Price \$35.00 (hard), \$27.50 (paper back). ISBN 0 409 30019 5.

This timely work, and I use the term 'timely' after deliberation, bears a cover sketch of the new High Court building. It contains substantial discussion of the decisions of the 'Barwick Court', and has clearly been produced to coincide with the two judicial events: the opening of the High Court's permanent home and the retirement of the Chief Justice.

Unfortunately, and to this 'timeliness' I ascribe the physical faults of the book, I found it almost impossible to perform my assigned task and actually read the book. It is uncomfortable to read, partly due to the small and close-set type face chosen, but primarily because of the layout chosen. Bearing all the hall-marks of a rushed production, the book is scantily foot-noted. The material which one may describe as peripheral commentary rightly finds itself in footnotes, but all case citations and such material appear in the text. A sentence may thus be broken in more than one place by numeric material totally irrelevant to the sense of the text, and, in fact, downright disruptive to the flow of the work.

Physical defects aside, the book is a lively commentary upon areas of federal judicial reasoning which clearly appeal to the author. If considered almost as a series of essays, rather than a work of cohesion and completeness, it comes as less of a surprise to find areas apparently missing from the contents and index. From this work one could almost believe that the Constitution does not intone 'There shall be an Inter-State Commission . . .'. I found the Inter-State Commission discussed briefly only by searching the Table of Cases for the *Wheat* case; (it was, thankfully, listed under its colloquial name) and following three 'false starts' referring to the *Wheat* case in relation to its commentary upon section 92 of the Constitution, a two-page discussion of the apparently mandatory but inexplicably non-existent body ensues, by way of illustration of the principle of the separation of powers. I consider it therefore unfortunate that, having put the book to its common use as a reference work, I needed the knowledge which I sought to achieve my purpose.

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