Book Reviews

Aboriginal Land Rights Law in the Northern Territory: Vol 1 by GRAEME NEATE, (Garth Nettheim, General Editor, Chippendale, New South Wales; Alternative Publishing Co-operative, 1989).

Aboriginal Land Rights in the Northern Territory (Volume 1) is the first in a series of two works by Graeme Neate which examine the content and operation of the controversial *Aboriginal Land Rights (Northern Territory) Act 1976 (Cth)* as at the end of 1986.

The Act was an initiative of the Whitlam Labor government which was committed to the recognition of the rights of Australia's indigenous people to the land of which they had been dispossessed as a result of the process of European colonization after 1788. The timing of the legislation was influenced by such developments as the controversial 1971 Gove land rights case[1] in which Mr Justice Blackburn ruled that the doctrine of communal native title did not form part of the law of Australia and that, for the purposes of the law, Australia was 'settled' rather than 'conquered' by the Europeans. That is to say, Australia was regarded as *terra nullius* or 'no man's land'. This decision sparked a wave of protests including the highly effective Aboriginal tent embassy which was set up outside of Parliament House in Canberra in 1972 to campaign for the recognition of Aboriginal land rights.

Following this, the Australian Labor Party (ALP) adopted a policy of recognition of Aboriginal land rights and in 1973, after Whitlam came to power, Mr Justice Woodward was commissioned to determine how this could be achieved. Justice Woodward's brief was to inquire into the situation in the Northern Territory — which at that time was still under the jurisdiction of the federal government — but his findings were to have profound ramifications for the development of land rights legislation in other parts of the country. In his initial report, Justice Woodward recommended the establishment of special agencies to act on behalf of Aboriginal communities before the Commission and the Northern and Central Land Councils were set up as a result. In his final report, the judge made a number of recommendations which were eventually incorporated into the Northern Territory legislation. In particular, Justice Woodward recommended that Aboriginal communities be given ownership of existing reserves and the establishment of a tribunal to determine claims made by Aboriginal people on the grounds of traditional association or need. Finally, the judge advocated that a special fund be created for the purpose of purchasing land for Aboriginal people and that this fund be administered by a commission set up for this end.

In 1975 the Whitlam government introduced a bill which incorporated

[1] *Milirrpum* v *Nabalco Pty Ltd and the Commonwealth* (1971) 17 FLR 141.

Woodward's proposals but the dissolution of Parliament in November of that year interrupted its passage into law. The Fraser Liberal government subsequently took up the issue and decided to enact a substantially similar piece of legislation. The Fraser legislation differed from the Whitlam bill, however, in that it gave the Northern Territory Legislative Assembly the right to determine certain issues. The majority of the Act's provisions came into effect on 26th January 1977. Since then the Act has been amended a number of times and has been the subject of three formal reviews. Furthermore, various provisions have been tested before the courts.

In light of this background the present work makes an important contribution to the process of evaluation and review to which the Act has been subject since its promulgation. Furthermore, it is written by an 'insider' who has intimate knowledge of the operation of the Act through his work on the staff of the first Aboriginal Land Commissioner, Justice Toohey, and subsequently in the Commonwealth Department of Aboriginal Affairs.

As noted earlier, this work forms part of a two volume study. Volume 1 is primarily concerned with the land claim process and Volume 2 (forthcoming) will examine the legal consequences of the title of land claimed reverting to Aboriginal communities. Volume 1 begins with a brief discussion of the background to the enactment of the legislation and then proceeds with a scholarly and comprehensive treatment of various aspects of the Act. In particular, the author examines such issues as the concept of traditional association as a basis for making a land claim and refers extensively to the work of anthropologists on the nature of Aboriginal communities' relationship with land. He then goes on to discuss the types of land which can be claimed and the nature of the land claim procedure. In this context, the admissibility and content of evidence of Aboriginal people and anthropologists are discussed. With regard to the evidence of Aboriginal people, the author shows that serious problems can arise because of the lack of suitably qualified interpreters who are capable of translating Aboriginal languages and the lack of understanding of non-Aboriginal people involved in hearings of the structure and traditions of Aboriginal society. Concerning the use of anthropologists in hearings, the author shows that they can provide assistance to counsel in the formulation of lines of inquiry and in the resolution of questions arising on the nature of Aboriginal people's association with land. Nevertheless, Neate suggests that their research methods need to be carefully scrutinized and that their evidence should be approached with caution. The final sections of the book consist of a discussion of the functions and powers of the Aboriginal Land Commissioner, the Minister for Aboriginal Affairs (who is responsible for the administration of the Act) and the Governor General. The work concludes with a consideration of the form of title of Aboriginal land and the range of people who are entitled to benefit from land grants made under the Act.

The author reaches the conclusion that, while legislation can never completely 'accommodate the needs of a dramatically different culture based on very different values from those of the non-Aboriginal Australian community', Aboriginal people have made 'substantial gains through the land claim process.'[2] Nevertheless, the satisfaction of legitimate Aboriginal claims for

land has, on occasion, generated resentment in sections of the white community even though much of the territory for which title has been granted is not economically productive. Furthermore, Neate notes that much needs to be done if the land claim process is to address the fundamental economic problems and legitimate social aspirations of the Aboriginal communities in the region. Finally, the author suggests that even though the recognition of Aboriginal land rights was supported by both major political parties and the broader Australian community in the late 1970s, there has been a swing away from this in recent years and the advocates of Aboriginal land rights have been on the defensive. Whether this results in a reversal of the gains which have already been made or prevents significant changes from being made in the future remains to be seen over the next few years.

This book is thorough and will serve as a useful reference work for those who are interested in how this complex piece of legislation has been interpreted by the courts. It will also be of interest to non-Aboriginal lawyers and others who wish to acquire a basic understanding of the nature of the relationship which Aboriginal people have with land and how rights to land are passed from one generation to another. If there is a criticism of this work, it is that this reviewer would have liked to have seen a more substantial discussion of the historical and political background to the Act and of the controversy which it has, on occasion, generated. Notwithstanding, it is an important work which will be of invaluable assistance to all those interested in understanding the complexities of Aboriginal land rights law.

RUTH ADLER
Faculty of Law
MONASH UNIVERSITY

Give and Take in Families: Studies in Resource Distribution by J BRANSEN and G WILSON, (London, Allen and Unwin, 1987), pp xi, 209.

'An Englishman's home is his castle.'

But every spouse or parent knows that a pecking order prevails in the domestic domain. Customs become conventions, conventions gradually firm themselves into law. When a rule is breached, there is strife, judgment and, perhaps, punishment. In its own way, each home is a microcosmic legal system.

But there is no common law, and few general rules to guide. Only when flagrant domestic violence ensues does the legal process intervene.

This English book seeks to examine the unwritten rules that govern family behaviour within the household — customs that guide everyday living, and especially the governance of family finances and purchasing arrangements.

All the essays in this collection, save two that have female and male co-authors, have been written by women. They have a common denominator. It

[2] Graeme Neate, *Aboriginal Land Rights Law in the Northern Territory, Volume 1*, 386.

is the book's *leitmotiv*. It is that women are disadvantaged in every domestic situation. When money is tight, women go short. Wives make sacrifices for their husbands and children. They even give the best cuts of meat to their husbands!

The picture emerging from these British samples is that most women are better off single. Living on a pension liberates them. For women are thus free from latent pressure to favour their men-folk. And, what is more, husbands are hopeless at child care and housework!

If this sounds like feminist propaganda the reader should be warned that the surveys appear to be efficiently and professionally governed. The language is impeccable sociologese and appropriate tables testify to the *bona fides* of the samplings.

Yet I am left in some doubt whether this picture of female oppression is fully representative. In the first place, it is not always clear which part of Britain is being sampled. Readers of Mrs. Gaskell will be aware that there has always been a huge discrepancy between the North of England and the South. One essay on family food consumption quite fails to identify the location of the investigated families. I suspect that they are in an industrial part of England, by reason of the apparent dearth of wine at their meals. (When I was last in Lancashire, I was offered wine with dinner at a private home. When I rather sententiously opined, 'A meal without wine is like a day without sunshine', the host's 21 year-old son commented, 'Aye! We 'ave a love of rain round 'ere!')

The subject deserves local examination. It would be especially interesting to compare Australian-born and migrant families. Do Australian women yield the best cuts of steak to their men-folk? And, as is claimed in the essay on food consumption, do mothers feed their children junk food because they feel that good food would be 'wasted' on them?

If this book is truly representative of family dynamics in British households, it is plain that compulsory courses in child nutrition and financial management should be immediately introduced there. The evidence of this book suggests that the cultural norms that seem to govern these matters are based on a series of superstitious fallacies.

Perhaps, after all, laws ought to be introduced regulating amounts of housekeeping, the amount of green vegetables that a child needs, and other *minutiae* of daily family living. For this book suggests that these matters are constantly mismanaged in English families — much to the detriment of children. At least, it is food for thought.

J. NEVILLE TURNER
Senior Lecturer-in-law
MONASH UNIVERSITY

Legal Research: Materials and Methods, E M CAMPBELL, E J GLASSON, P Y LEE AND J M SHARPE (Sydney, The Law Book Co Ltd, 1988), pp 326.

Law students early confront a dilemma faced by all who work in the law — whether to buy law books or merely to borrow them. The books are generally expensive, the selection is prodigious and few carry their age well enough to warrant purchase early in a legal career. It is a pleasure then to find a book that can be recommended to law students with the confidence that it will continue to merit a place on their practitioners' shelves ten or more years hence.

Legal Research: Materials and Methods is designed as a reference guide to legal research. It is in fact more! The authors, two legal scholars and two law librarians have combined their talents to produce the third edition of a very readable exegesis on the sources of the common law and the methods for its research. Because of its style, far less dry than many others in this field, and its thoroughness it can be recommended to both law students and practitioners both as a reference guide and as an explanation of the method of effective legal research.

The work, of over three hundred pages, is arranged in a logical order. The authors, mindful of their didactic purpose, begin with an explanation of the function of precedent in the Common Law. This will be of greater use to the student. Its explanation, though brief, is thorough, and useful references are given for further reading on the topic.

One of the great pleasures of legal research is the continuing encounter it affords with the rich fabric of intellect and history of the Common Law. The authors have been careful to abide by this tradition through inclusion of a broad range of source references. Although primarily focused on Australian and English law, the work includes a brief, but adequate survey of sources for law in Canada, New Zealand, Ireland, Scotland and the United States. It provides also a timely and succinct survey of source of Public International law.

Properly, the authors have devoted significant consideration to research of reported cases and statutes.

A very thorough guide to both English and Australian case reports and digests is included. Particularly good is the historical discussion of English cases. Regrettably there is little reference to the research and use of unreported Australian cases. Specific sections outline the available reports for every Australian jurisdiction, as well as providing reference for the vast miscellany of special reports that have developed, such as bankruptcy, land and local government or tax.

The authors have wisely sought not to do too much in their review of reported cases. They provide an adequate survey of major sources in the United States and Canada, but make useful reference to similar works that are specifically concerned with those jurisdictions.

Fully, almost a third of the book is devoted to statute law. This includes a very readable account of the introduction of statute law into Australia. The dating is precise and the reader has in the one work a concise statement of the

foundation of law in all Australian jurisdictions. More gritty questions for the practitioner are ably considered. For instance, rules for interpretation, the ever perplexing difficulties of repeal and amendment, as well as transitional provisions all receive treatment. In this area, seeming esoteric points may arise for the practitioner with an embarrassing regularity. The reader has here a ready reference for further research on statutes along with authoritative statements of law. An indication of the depth of the work in this regard is the brief, but clear, discussion of such arcane points as repeal of a repeal. If an act is repealed by another act which is then repealed, does this have the effect of reviving the initial act? The authors provide a precise and complete answer which I leave for the readers whose memory on this point may have slipped to rediscover for themselves.

The vast amount of ancillary reporting services, governmental and quasi-legal publications now available are ably canvassed. Included are sections describing legal encyclopedias, dictionaries, periodicals and loose leaf services. Those seeking an explanation of parliamentary debates (where such is possible) will find assistance in the references to the appropriate Parliamentary papers for each Australian legislature.

The review of source material is rounded out by references to relevant non-legal materials which may be useful in establishing particular facts.

In keeping with their didactic purpose, the authors have included a discussion and illustration of the purpose and methods of legal research. Unfortunately, computer aided research is given limited consideration. As resources grow in Australia in this regard, a more fully developed section would seem necessary.

The book concludes with a useful section on citation of courts, judges and cases, as well as a handy list of common legal latinisms.

Legal Research: Materials and Methods should not simply be recommended reading for law students; it should be required. The work would form a good basis for a short course in legal research. Alternatively it will be invaluable to those preparing moots or commencing scholarly writing.

Those more seasoned in the law will find here a useful and entirely readable assemblage of all those disparate sources of law they have encountered through meanderings in law libraries. As well, many of the peculiarities of legal literature, which one may simply have accepted without question, are comprehensively explained. Much of the book is like a revelation of the librarian's art combined with the academic's thorough knowledge of the law. Certainly there is more here than can be conveyed through review. It will be a rare lawyer indeed who does not profit from a reading of *Legal Research.* Those seeking a guide to legal research either in Australia or England are on firm ground here.

W. M. FINCH
Lecturer in Law
QUEENSLAND UNIVERSITY OF TECHNOLOGY

Australian Evidence, by A L C LIGERTWOOD , (Sydney, Butterworths, 1988), pp xliii, 443.

The modern law of evidence is truly a product of this century. After all, the present criminal trial as we now know it, can largely be traced back to the passage by the United Kingdom Parliament in the closing years of the 19th century (not forgetting some measures by State colonial parliaments earlier that decade) of the *Criminal Evidence Act* 1898. This statute it will be remembered (and it still surprises most lay persons) enabled the accused for the first time to give sworn evidence in her or his own defence. The numerous reports of British Commonwealth law reform bodies over the last twenty years, attest to the fact that there is still much work to be done in modernising this field of law. The hearsay rules are, for example, in urgent need of legislative revision. The rules relating to the reception of evidence from child victims of sexual offences are only now coming under close scrutiny. The new methods of crime detection like DNA finger-printing already require legislative intervention, not only to ensure the admission of such evidence, but also to safeguard the rights of the accused.

On the academic front, the re-shaping of evidence law over the previous 30 years, has been led by the late Professor Rupert Cross. The six English and three Australian editions of his large volume are very familiar to legal practitioners, academics and students. In fact, the author acknowledges his indebtedness to this work in the opening sentences of his preface. Over the last few years, the increasing interest in this field of learning has meant that *Cross on Evidence* has been joined by several smaller Australian books on this topic. Ligertwood's *Australian Evidence* is in my considered view, the most readable and perceptive of these works. It is the one which I suggest my evidence students read because it gives them a comprehensive and holistic framework from which to view this growing field of scholarship. Although its text is less than 430 pages, its detailed cataloguing of the evidentiary rules is more than sufficient, not solely for law students, but its up-to-date depth will aid the busy practitioner.

This book has two strengths. In the first place, its length enables a beginner (be she or he a student or a practising lawyer seeking to revise her or his knowledge) to obtain a swift coverage of this field of law. In the second place, the author mounts a thoughtful argument that the rules of evidence can best be understood when viewed as part of the rules of procedure. In the author's view, there has been a tendency to regard the rules of evidence as arbitrary and unnecessarily technical. Only when their procedural context is emphasized '. . . can their purpose be seen and their justification understood.' (at p.1) The large procedural arena is of course a useful venue from which to view these mainly exclusionary rules. What the author does not deny and in fact also emphasises, is that both the broader rules of procedure and those of evidence are products of the history of the mode of trial in Anglo-Australian law. It is this history which has given me my deepest insights into both evidence and procedure.

One interesting feature of this volume, is that in several broad chapters the author gathers together groups of related rules and concepts. In Chapter 3 for example, not only is character examined in all its aspects including evidence revealing the disposition of third parties, but this coverage extends to similar fact evidence, the rules governing the accused as a witness and the problems which arise where several accused are jointly tried for the same or related offences. Similarly, Chapter 5 focuses upon all aspects of access to information within the context of the adversarial trial. This covers legal professional privilege, as well as those privileges which protect marriage, the operations of Parliament, the general public interest and the right of persons to remain silent and not to be subject to questioning which may incriminate them. Chapter 8 examines the hearsay rule and its well-known common law and statutory exceptions and analyses the two other major exceptions, namely *res gestae* and of course admissions and confessions. Given the controversy surrounding the power of the police to detain suspects, allegations about 'verballing' and proposed and actual reforms concerning the tape recording and/or videoing of confessions, in my view this hearsay exception warranted more detailed treatment.

We inherited the common law rules of evidence (together with some statutory measures) from England. As with other branches of the common law, the High Court and the State and Territory Supreme Courts (the Federal Court hears few criminal matters) have more especially over the last fifteen years, moulded these evidentiary rules and principles for operation in present day Australia. These rules, particularly when applied in criminal trials, require much reshaping to meet the ever altering conditions of our society. The High Court judgments in *Bunning* v *Cross* (1978) 141 CLR 54 on illegally obtained evidence, *Cleland* v *R* (1982) 151 CLR 1 on the discretion to reject illegal confessions and most recently, *Walton* v *R* (1989) 84 ALR 59 on the intractable hearsay rule are three instances of this more free wheeling approach. In this book, the author has of course taken account of these curial and statutory changes and has produced a fine volume setting out the rules of evidence in Australia.

RONALD CLIVE McCALLUM
Associate Professor of Law
MONASH UNIVERSITY

The Process of Law in Australia: Intercultural Perspectives by GRETA BIRD, (Sydney, Butterworths, 1988), pp 454 (with index).

The strength of *The Process of Law in Australia: Intercultural Perspectives* may seem, to the indiscriminate eye of one acculturated in law, its weakness. In *The Process of Law in Australia* Greta Bird forcefully and successfully gives voice to the 'outsiders', those individuals whose experience of the world is coloured by race, ethnicity, gender and class. In her effort to design a curriculum which reflects the cultural diversity of contemporary Australian

society, Bird focuses upon Aborigines and members of the Greek, Turkish and Vietnamese communities. In so doing she 'contextualises' the law. Moreover, and of equal importance, she places the issue of tertiary law curriculum at centre stage.

Bird, currently the Director of the National Centre for Cross-Cultural Studies in Law based at Monash University, wrote the text while employed as a research fellow at Monash. Originally intending to integrate issues of concern to Aborigines and non-English speaking migrants into the Legal Process course, Bird soon realised that race and ethnicity could not be separated from questions of gender and class. Thus race, ethnicity, gender and class form the thematic whole around which the chapters of the text — the reception of English law, cultural heritage, migrants and worker compensation, courts and tribunals, precedent, standing to sue, education, and summary justice — are arranged. Although most appropriate for first year law students, the book should appeal to a wider audience. As well as a basic textbook, *The Process of Law in Australia* does provide an imaginative resource for use in such various and diverse courses as Legal Process, Introduction to Law, Law in Society, Workers' Compensation, Employment Law, Education and the Law, and Legal Institutions.

In a manner consistent with her aim, yet uncommon in many law texts, Bird specifically states in the Preface the assumptions upon which the book is written which concern the nature of law and law-making and the role of the legal education in the production of lawyers. According to Bird, as the law does not operate in a vacuum its study should be undertaken through an exploration of contemporary issues, which highlight how economic, political and social forces affect the law, to enable students to discuss their own experiences of the world, to see the limits of the law and its role as a creative force in society. Thus for Bird, legal education should be reformist. It should produce lawyers who are 'competent to work in an increasingly complex and multicultural society', aware of the concerns and ethics of other professionals, and 'able to think creatively and critically'. Such individuals should be adept at divising, 'resourceful at working for construction change in the legal system', and sensitive to and understanding of their clients' special needs and points of views (xiii–xiv).

At first glance, the text may appear disjointed — peppered with inserts and quotations from a vast array of sources. One of the strengths of the volume, however, is its incorporation of select committee proceedings, articles, conference papers, excerpts from the texts and journals, reports, statistical data, etc. with case law and legislation. These resources reflect the multidisciplinary approach adopted and, hence, well serve any student pursuing a degree in law, even though Victorian case law and legislation predominate.

Most chapters include: an overview and a summary, which highlight key points and tie together the threads woven throughout by Bird; and an extensive and impressive bibliography, often accompanied by a list of materials for further reading. Most chapters also contain questions which ask students to reflect on their own experiences and draw on the information provided in the text. Most importantly, from an educational perspective, the questions are

constructed so that students must use both higher and lower level cognitive skills. Aware of the importance of active learning, Bird quite rightly favours a 'hands on' approach to teaching and learning in which students acquire skills and develop critical faculties as they assume responsibility for their learning. Thus she encourages students to undertake research and fieldwork individually or collectively, for example by visiting factories, interviewing lawyers, migrants, social workers, doctors, and so on (p. 98).

In an effort to bring the law to life and sensitise the future lawyer to community needs and concerns, three chapters in particular are centred and developed around three case studies. In 'Migrants and Workers' Compensation' the experiences of a migrant woman suffering from R.S.I. act as a means through which the reader explores the role of migrant labour in the Australian economy and traces the historical development of workers' compensation through to the passage of the Victorian *Accident Compensation Act* 1985. In 'Migrants and Education' the students are asked to provide legal advice to the father of a 14 year old Turkish-Australian school girl, who is chronically absent from school. This chapter also adopts an historical perspective: the history of state education in Australia is succinctly outlined and the issue of truancy and absenteeism related to the ideology of compulsory schooling. Problems which arise from multicultural schooling, the 'evident failure of the assimilationist policy' (at 361), and the compounding concerns of ethnicity, gender, and the lack of childcare are raised and briefly addressed.

The final case study, in the chapter entitled 'Migrants and Summary Justice', is poignant and best illustrates Bird's message. Students are asked to assume that they work as solicitors at a community legal service. As part of their case load, they interview with the aid of an interpreter two Vietnamese-Australians, who have been found guilty under the Victorian *Fisheries Act* 1968. The men appear worried and confused. They claim that they were unaware of the laws governing fishing in Victoria and state that when 'government papers' arrived for them in the post, they were frightened and hid the documents under the carpet until a police officer arrived and they were told that they would have to 'pay money to the court' or go to gaol (p. 381). In an effort to provide students with insight into the attitudes which these men might hold toward the law and the legal system, Bird interweaves into the discussion of summary justice information on the history of Vietnam and extracts from diaries and readings which describe the Indo-Chinese view of the law and cultural attitudes towards fishing.

The text, however, is not solely client-centred. Bird raises current educational issues (e.g. the growth and importance of conciliation, mediation and arbitration) and discusses trends in legal education. She attends to some of the problems which are of interest to students which the effective lawyer can experience — heavy workload, 'burn-out', a lack of training in interpersonal relationships, professional ideology, and the stereotyping of clients (p. 133). In an attempt to awaken in students the need for cultural sensitivity, Bird herself is quite careful to strike a balance between cultural awareness and the trap of cultural stereotypes.

As Bird acknowledges in the Preface, several important topics of concern to the aspirant law graduate are not addressed in *The Process of Law in Australia.* The absence of material on the role of the jury, the criminal justice system and Aborigines, the significance of Aborigines in the development of Australia's economy, etc., though understandable, is noticeable. Nevertheless, as she states that 'this lacuna will be filled in later editions of this book' (p. xv), one can but only look forward with pleasure to the second edition. A second edition may include more direct linkages between extracts and text, additional pointers in the chapter 'Migrants and Education' on how the issue of education affects migrants in the legal system, and some guideposts for determining those over-arching values which may help us reconcile conflicts between personal and societal obligations and rights, which seem to characterise truly multicultural societies.

As Ray succinctly states in relation to Family Law in the excerpt, 'Culture, Religion and Family Law',

> The question of how the law should handle . . . religious and cultural values is a difficult one. Law is not an autonomous and neutral discipline and justification of legal reasoning cannot be sought in the law itself . . . (T)he courts must look beyond their traditional boundaries and, if appropriate, borrow from other disciplines and knowledge in order that cultural and religious factors are properly considered . . .
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> — (A. Ray cited in Bird, 1988: p. 220)

Although this underlying problem remains unresolved in the *The Process of Law in Australia: Intercultural Perspectives*, Bird's text makes a significant contribution in its attempt to sensitise future lawyers to the needs of their clients as these lawyers themselves refine and shape the law to suit contemporary society.

M. J. LE BRUN
Lecturer in Law
UNIVERSITY OF TASMANIA

Legal Process: Commentary and Materials, by DERHAM, MAHER and WALLER, (5th ed. by SMITH & POSE, Sydney, Law Book Co Ltd, 1988), pp v–xxx, 591.

When *Cases and Materials on the Legal Process* was first published in 1966, it represented the innovative work of three distinguished and experienced teachers at Melbourne University. As one of the first, if not the first, Legal Process casebooks, it gave a coherent structure to a subject which had no innate logical order of treatment and immediately became the bible for all Legal Process teachers. Subsequent editions (from the third under the new editorship of Kevin Pose and Malcolm Smith) introduced the continuing theme of *Benson* v *Lee* and the development of the law relating to nervous shock to give unity to the treatment of common law and legislation.

More than twenty years later, the fifth edition faces competition from a

number of relatively new Legal Process books and unfortunately it is starting to show its age. While law faculties around Australia are increasingly teaching the skills of case law analysis and statutory interpretation in a wider systemic context, including not merely the conventional legal institutions but also the relationship between Aboriginal and migrant communities and our essentially British system, *Legal Process Commentary and Materials* includes five pages on the imposition of British law and the status of Aboriginal customary law and makes barely passing mention of the difficulties faced by non-Anglo-Saxon Australians in dealing with the legal system. The only reference to the place of legal aid in the modern Australian legal system appears in a passage of text which apparently purports to be new in this edition yet retains statistics of the *Victorian Legal Aid Committee* for the years 1973–75 (p 73).

On the positive side, the fifth edition does adopt a more problem-oriented and process-oriented approach than previous editions. It does this, first, by opening Chapter 1 with a problem which raises numerous issues which are followed through in successive chapters and which enables the question of civil liability for nervous shock to be discussed side by side with road traffic regulations and statutory compensation schemes. Secondly, as the editors say in their Preface, the 'heavily textual chapters have been moved so that they follow the case material chapters' and this renders the book far more 'teacher-friendly'. It is difficult to teach from pure text.

Two sections of substantially new material have been added: a discussion of dispute resolution processes; and the addition to the 'Evolution after *Donoghue* v *Stevenson*' chapter of *Dorset Yacht Co. Ltd.* v *Home Office* [1970] AC 1004, *Anns* v *Merton London Borough Council* [1978] AC 728, *McLoughlin* v *O'Brian* [1983] 1 AC 410 and *Jaensch* v *Coffey* (1984) 155 CLR 549.

These sections apart, the changes in the fifth edition consist almost entirely of re-arrangement of material. The task of the reader seeking to identify genuinely new material is made more frustrating by the use of sidelines at intervals throughout the book, which are not explained by the publisher but which presumably are intended to identify new material. In fact, many sidelined passages are not new and others are 'new' only in that the type-face used in sub-headings has been changed. The layout and appearance of the book has been greatly improved, by the use of clearer headings and a cleaner layout, but the uncertainty over what is in fact new material leaves the reader with the uneasy feeling that the new edition was produced without a systematic analysis of the many areas which have developed since the fourth edition. Nowhere is this more obvious than in the fifth edition's treatment of the *Australia Act* 1986. The editors claim in their Preface to have included 'a detailed analysis of the *Australia Act* 1986.' In fact, the chapter referred to merely reproduces the legislation and appends a list of questions. It is to be hoped that the editors will undertake a more thorough and thoughtful revision for the sixth edition.

SUSAN CAMPBELL
Senior Lecturer in Law
MONASH UNIVERSITY

Understanding Law: An Introduction to Australia's Legal System by RICHARD CHISOLM and GARTH NETTHEIM, (3rd ed, Sydney, Butterworths, 1988).

'They are playing a game. They are playing at not playing a game. If I show them I see they are, I shall break the rules and they will punish me. I must play their game, of not seeing I see the game. R D Laing, *Knots*.
'If laws are just, and if they deal fairly between individuals and groups . . . it will be because the society is fair and just: an unjust society is not likely to have a just legal system.'

The first quote appears on a title page of *Understanding Law*. The second is in the first chapter, page 6.

Understanding Law is an overview of the legal system which is explicit about the values of its writers. It is what is often called irreverent — chatty, even colloquial, it has no time for the pompous self-justifications of some legal writings. The legal system is not sacred — in many ways it is a game — but it is an important and socially powerful game. Everyone benefits by being 'in' on its rules and understanding how it works.

However this is not a work of legal philosophy or sociology. It is an introductory book on the Australian legal system, and covers a vast range of topics in a very small number of pages (145, including the index).

It begins at the beginning — what is now fortunately recognised as the beginning — with Aboriginal Law and the application of English law in Australia. Then the main branches of the law; sources of the law; limits on legislative power; interpretation of legislation; the legal profession; and the courts structure. These are the staples of an introductory law text. Also included are chapters on the role of the concept of fairness, or due process, in the legal system; legal aid and access to justice; individual liberty and public power-rights, the role of governments, and access to review; and a final chapter on the relationship between law and morality. Although the authors modestly say that this is a rather 'narrow and traditional' book on the legal system it in fact includes a great deal (in admittedly brief compass) to put the law in context.

Understanding Law makes explicit the reality that a legal system is a function of the society which creates it. Laws reflect dominant social values and interests. Interests in the environment, for instance, or interests such as those of aboriginal groups in land, or the interests of recipients of Government decisions, have been difficult to classify, and indeed to 'see', within the economic-based value structure of our inherited legal system. Judges working within this system have literally not had the tools — the conceptual frameworks — to protect such interests, even if they had wanted to. Some of these limitations are changing now, largely by legislative reform.

This book deals with related issues such as the politics of the way judges make law, of the doctrine of precedent, and of the operation of rules of statutory interpretation. On the rules of statutory interpretation the authors say

'. . . at their face value they can be very misleading. They tend to suggest

that it is possible to resolve uncertainties in a statute by *rules*. This is not true. Statutory interpretation, just like the interpretation of precedents, requires the court to make a creative decision, and this decision may well be a difficult one, requiring judgment in resolving difficult policy decisions. Judges have to do this, whether they like it or not, and they do not help matters by doing it behind a smoke-screen of rules and presumptions.' (at 62)

This is the third edition of *Understanding Law*. First published in 1974, with a second edition in 1984, the authors note that this third edition may become a collector's item: one of the few things to be done in Australia in 1988 that is not part of the Bicentennial celebrations. The impact of the arrival of the British on the Aboriginal people of Australia is not cause for celebration by *all* Australians.

Introducing Law is addressed to non-lawyers, with the aim of informing, and demystifying. As the authors said in the first edition, 'Law cannot serve the community properly if it is shrouded in mystery, and there is no good reason why it should be.'

It will also be a useful introductory text for beginning law students, although inevitably too lacking in detail to stand on its own. Other texts such as Derham, Maher and Waller, *An Introduction to Law* and Morris et al, *Laying Down the Law*, provide more of an overview of the system for the purposes of law students.

The authors make extensive use of practical examples to illustrate theoretical points, which is an effective way of grounding the broader principles of law in a real-world context. It also provides useful teaching tools for introductory law courses: for example the discussion of *Manley*'s case, at p 31.

I wondered at times, however, how well it catered for the non-lawyer. Its (conscious) avoidance of detail and occasionally dismissive handling of procedural and substantive technicalities left me unsure whether enough information on some points was being given.

The book concludes with a list of additional readings, in this edition classified into general topics. References in the text are few, and the rare footnotes are strictly for explanation (eg the playful explanation of 'brother' and 'learned friend' at p 34).

This is generally appropriate for the intended readership, but I would have liked to see more reference material for those who wanted more detailed information, for instance in end notes. Cases named in the text are, I discovered, given a full citation in the index, but other cases which are described, but not named, are given no reference. For example, the facts of the strict liability case *Cundy* v *Le Coq* are discussed, without naming the case, at p 63, and a quote included, with no means by which a reader could discover the original source. At the same time, on the previous page the authors acknowledge their indebtedness to the writing of H L A Hart in formulating their approach to the particular subject matter. A fine statement by King CJ on the importance of ensuring equal access to justice (p 102) is similarly unsourced.

There are also some odd entries in the index, suggestive of computer

searching techniques — Nordic Gnomes, for instance (which Ombudsmen are not), and Yorkshiremen and Red Hats (possible subject-matter of legislation).

Overall, however, taking account of the stated aims of its authors, *Understanding Law* is a wideranging, but succinct, overview of the Australian legal system and the context in which it functions. It should perform a useful introductory role for law students, and a valuable demystifying function for the non-legal community.

BRONWYN NAYLOR
Lecturer in Law
MONASH UNIVERSITY

Understanding Crime and Criminal Justice, edited by M FINDLAY and R HOGG (Sydney, Law Book Co. Ltd, 1988) pp 349.

Australian criminology seems to be entering a new epoch. Trailing slightly behind changes in British criminology in the early 1980s, it might be said that in the late 1980s, Australian criminology researchers have arrived at *postmodern* criminology. Gone are the interminable 'either/or' debates of the late 1960s and 1970s between the irreducibly pragmatic and atheoretical concerns of so-called 'correctionalist' criminology on the one hand, and the Marxist-inspired, theory-heavy structural critiques of the 'new' criminology. This departure can scarcely be lamented. Just as one could regret the smugness and unreflexiveness of much mainstream criminological scholarship for failing to probe in any concerted sense social and legal definitions of crime, equally one could feel frustration at the refusal of 'new' criminologists to proffer solutions to problems in such areas as police accountability and victimisation, once they had 'demolished' the capitalist system for its role in the causation of crime and the alienation of workers. In large measure what was lacking was any attempt to accord validity to the *experiences* of ordinary persons in relation to crime, particularly as victims, and to respond in constructive, concrete ways. But also there had been a failure to connect this micro dimension with the nature of advanced capitalist societies, to which classical Marxist concepts no longer applied, if indeed they ever did.

It is true, as the cover notes claim, that this book 'welcomes the intrusion of social and political theory into the realm of traditional criminology'. It is also, however, true as the editors state in their Introduction, that the essays can be located 'within contemporary crime debates as they relate to broad arenas of social analysis and social policy'. In so defining the ranges of the book's concerns, the book represents a much welcomed addition to Australian criminological literature. What distinguishes the collection as a whole is its postmodern focus upon different levels of theoretical explanation and experience. Perhaps most importantly, although this theme is more implicit than explicit, is the commitment to relating theory to practice. Evident in many of the contributions is the realization that social practice requires theory in

order to develop coherently, and that at the same time, social and political theory which ignores the demands and constraints of practical contexts is largely incoherent and certainly irrelevant to people caught up in those contexts.

The range of issues covered by the contributors to the book is broad: feminist criminological theory, domestic violence, sexual assault, white collar crime, 'realist' criminology, drug abuse and control, policing, juvenile justice, sentencing and forms of punishment. While the standard of the contributions is predictably varied, there are no bad contributions as such. Aside from the diversity of topics covered, the book lends itself to use as a criminology or criminal justice textbook for the reason that most contributions endeavour to review the literature in their respective fields, with a fair degree of success, thereby presenting a range of issues and perspectives on each topic. However, as a textbook it might not stand by itself as there is a tendency in some contributions to use sociological concepts quite liberally at a general level. To some extent this is justifiable, but it undoubtedly would present difficulties for some undergraduates in criminal justice or law courses.

In many ways, it would be easier to identify the less interesting contributions to the book than to try and focus upon the best the collection has to offer, given the overall standard. The originality of the work varies, as some essays reflect substantial work published elsewhere eg the work on corporate crime by Fisse and Braithwaite. This is not however to suggest that they should have been excluded. Among the more thought-provoking essays I would list Ward and Dobinson on legislative responses to heroin, Fisse and Braithwaite on the accountability of corporate entities, Weatherburn on judicial discretion in sentencing and the piece on reform politics in women's imprisonment by Brown, Kramer and Quinn. Each of these essays, as indeed a number of the other essays, raise questions of direct relevance to practising lawyers, law reformers and legislative policymakers as well as criminologists and other social scientists. Each draws attention to the limitations of simplistic legal models of social intervention. Each draws attention to the complex nature of the milieu within which attempts through law to modify social conditions and behaviour must operate. Two examples will illustrate this point.

Fisse and Braithwaite address the regulatory dilemma posed by the patent failure of many attempts to influence the behaviour of corporations through the imposition of criminal sanctions. The complexity of the corporate form is clearly implicated, yet responsible human agents within that form are frequently insulated by that form from the effects of sanctioning the corporation. Thus the authors advocate that public enforcement systems be structured so as to activate and supervise the internal justice systems within the corporations. In formulating a number of practical strategies, the authors draw upon enhanced understandings of the corporate form and approaches to its regulation *inter alia*, from organisational theory and legal anthropology.

The second example is from the essay on reform politics by Brown, Kramer and Quinn. The essay in large part addresses the implications of the aftermath of the Task Force on Women in Prison in NSW. The authors trace the demise

of a series of reform recommendations, put forward in a report that they recognise as substantially positive and constructive in its conception. Instead of railing blindly against 'bureaucratic cooptation' or 'state repression' Brown et al set out to identify the specific conditions which led to the demise of many of the proposals, but also to locate the sites of strategic 'leeway' within the government structure, at which future reformers and lobbyists might make strategic gains. In essence the authors argue for a more sophisticated analysis of the politics of law reform, but one which is both theoretically informed and sensitive to the realities of the players involved.

Overall, the essays in this collection testify to the growing strength, depth and maturity of Australian criminological research. It is particularly satisfying to see that this is taking the form of theoretical as well as empirical work. While the fact that virtually all the contributors come from New South Wales might strike some as disappointingly parochial, it should instead be seen as a stimulus to criminologists in other parts of Australia to produce works of similar scope and diversity.

ANDREW GOLDSMITH
Senior Lecturer in Law
MONASH UNIVERSITY

Australian Policing: Contemporary Issues, edited by D CHAPPELL and P WILSON, (Sydney, Butterworths, 1989) and *Police in Our Society*, edited by I FRECKELTON and H SELBY (Sydney, Butterworths, 1988).

It is difficult to imagine an occupational group that manifests a more profound sensitivity to criticism yet which has such privileged access to the media than the police. That sensitivity is frequently aired in the pages of our newspapers and on radio and television, as senior police officers and police union leaders spring to the defence of police power and police practice. Much of the energy invested in these defences is directed at 'academics', 'civil libertarians' and others who dare to criticise or even question the shibboleths of current policing. *Ad hominem* attacks are not uncommon. Yet one of the deep ironies of this situation is that if one were to do an analysis of the number of column inches devoted to the police perspective and compared it with the attention which police critics receive in the media, there would be an overwhelming bias towards the official line. On such an important topic as policing, one which touches virtually everybody at some time or other, this skewed representation of views is much to be regretted. This situation in itself requires reflection and comment. Why do the police seem so reluctant to receive criticism, even of a constructive and well-intentioned kind? And why is it that the media in Australia has chosen to give the police such access, without balancing this access with views of a different kind? These questions are not merely of 'academic' interest, for the character of law and order debate materially influences the sort of political decisions that are made about the extent of police powers, the resources to be allocated to policing, and the type

of policing which we receive. The striking poverty of current law and order debate in most of the media is driven home clearly for anyone who reads either the Chappell and Wilson or Freckelton and Selby collections.

Each book covers a wide range of topics concerned with policing in contemporary Australia; there are twelve chapters in the Chappell and Wilson reader and nineteen in the other. The authorship of the various articles is interesting in itself. While there are at least two serving police officers represented in the Chappell and Wilson book (both from the New South Wales police force), there is *none* in the Freckelton and Selby collection. What explanation do the editors give for this omission? Was it 'academic' or 'civil libertarian' bias against serving police officers? Not at all. Having been invited to participate in the series of Police in Our Society seminars held at the Victorian Law Institute in the spring of 1987, the police chose ultimately not to take up the invitation. Neither police management, the police association nor the police minister at the time saw fit to participate. As a result, the book contains the papers of all the participants in that seminar series, but no contribution from the police of Victoria. However two representatives of the NSW police system (David Bradley of the Police Academy and Sir Gordon Jackson of the Police Board) do contribute to the book.

This selective sensitivity to publicity by the Victorian police is symptomatic of a more troubling general resistance to outside criticism and comment among many police officers. Hugh Selby hits the nail on the head in his essay in the Freckelton and Selby collection on internal investigations in the Victorian police force, when he discusses obstacles to reforming police investigation practices. The major obstacle, he concludes, is the 'police refusal to believe that a non-policeman can offer them anything which might assist them to do their job better'. The police response to such suggestions is to regard them as 'at best, academic, rather than practical, at worst malevolent and anti-police'. The implications of this attitude for police responsiveness to the community in a whole host of ways are arguably enormous. We are increasingly told that the police provide a 'service', that they are in the 'people' business. The police are more and more seeking to shift responsibility for crime prevention to the community, through Neighbourhood Watch and similar programs. We are informed that the new policing philosophy is 'community policing'. This is fine enough rhetoric, but what exactly does this all mean in practical terms? Who is doing the telling and who is doing the listening? The impression gathered from reading a number of the essays in the two books is that there is too much of a one way passage of information from the police to the public, but little evidence of the police allowing information from the public to influence perceptibly the forms of policing in different communities. Essay after essay either directly or indirectly points to the entrenched nature of police resistance to advice and criticism. In part the problem is insufficient and inadequate accountability mechanisms to balance the police perspective, but more fundamentally, there is a problematic police attitude, a state of mind which needs to be seriously tackled. In a country in which we are told that drovers' dogs can win elections and future Prime Ministers can learn to fly in very quick time, surely it is conceivable that persons

other than serving police officers have something of value to offer to policing.

Police in Our Society, edited by Freckelton and Selby, is divided into five sections. These are: police-community relations, police-media relations, police powers, police management and external review of police conduct. The calibre and pitch of the essays in this collection reflect the seminar nature of their origins. As a result they are at times rhetorical rather than tightly argued, not fully documented in the manner usually expected of scholarly writing, and varied in quality. Two or three of the contributions are of limited value and might have best been omitted. But overall, the collection contains some informative and thought-provoking material. For example, in their essay on police-community relations, Hogg and Findlay suggest that perhaps the best test of police accountability and police responsiveness to community concerns should be the quality of the relationships the police have with those groups with whom they have the most contact. While this might strike even an optimistic civil libertarian as being a bit of a tall order, for a police management committed to excellence in meeting its objectives, setting a standard along these lines would certainly serve to reorient current police attitudes and practices, even if the standard was never fully realized. To set such a standard as an *ideal* of policing would be a major step forward.

Freckelton's essay on the symbiosis between the police and the media is a detailed, carefully argued exposition of the situation, calling into question police and media use of statistics and confirming the police reluctance to engage in policy debates. A number of the essays deal with police powers, reflecting a divergence of views. It is encouraging to read such remarks as those of Peter Clark of the National Crime Authority, questioning the need for the greater police investigative powers and echoing the call of the Stewart Royal Commission for a greater magisterial role in the supervision of interrogations of suspects. Taking quite a different view altogether, the police would find little to complain about in the opinions of Jim Bowen, particularly his views about those groups that oppose the extension of police powers.

Aside from addressing the media issue, *Police in Our Society* is to be commended for including sections of police management and external review of police activity. While the latter certainly reflects a particular interest of the editors (both being involved in the ill-fated Victorian Police Complaints Authority), both are important and warranted inclusion. The issue of external review is a dimension of the broader issue of police accountability, which is an ongoing area of difficulty and disagreement, while the matter of police management is one which arguably has been ignored by police scholars for too long. The growth of managerialism in the public sector, precipitated by diminishing resources, cannot continue to leave policing unaffected. It is one thing to be asked to assume that only the police are qualified to advise and comment on law and order questions, it is quite another to be asked to accept that senior police officers have the necessary qualifications to manage multi-million dollar enterprises like police forces.

As might be expected, not only the themes but also to some extent the authors overlap between *Police in Our Society* and *Australian Policing: Contemporary*

Issues. The latter collection however is quite distinct in its concept, following a more traditional pattern for scholarly collections of its sort. Again the range of authors represents a diverse display of perspectives and subjects of interest. Unlike the Freckelton and Selby book, there tends to be less overlap of subject matter between the authors. One conspicuous exception is the topic of police management, broadly defined, which receives the attention of six of the book's twelve chapters. The analysis of some of the contributions in this area makes clear the link between good management and accountability, both of the political and fiscal variety. As Grabosky notes, while the refrain that the police need more resources has become a familiar one, the question is rarely if ever addressed of 'how improvements in administration and management may in themselves lead to increases in effectiveness, thus obviating the need for additional resources'. Of necessity, the traditional militaristic model of police administration comes in for a lot of criticism in these chapters. One of the most challenging contributions in this regard is by Jim Munro. Munro starts by accepting the need for the police organisation to be accountable at a number of levels. This requires a style of leadership which he terms 'entrepreneurial'. The entrepreneurial police executive is dedicated to the establishment of an organisational police culture which values communication, is action-oriented in the sense of not clinging excessively to convention, is open to experimentation, is tolerant of failure and is people-oriented. While this might sound to some like managerial doublespeak, if seriously implemented, the resultant police organisation would be quite different from the present model based on military principles. Another proposal which Munro makes is the value to be obtained by a constructive involvement of the police unions in the management process. Unfortunately for most police managers, such a proposal would be unthinkable.

The balance of *Australian Policing* deals with issues such as policing youth (James and Polk), policing public order (Veno and Veno), community policing (Bayley) and police accountability (Freckelton and Selby, Sarre). James and Polk address the specific character of police discretion in the policing of youth in public places. Their essay examines the notion of police stereotypes, expressly questioning the relationship which these stereotypes bears to the concerns of the community about juvenile crime. The authors argue that there is a new youth 'underclass' which is the principal focus of public order policing. Veno and Veno explore the range of theories used to explain collective violence, and turn to an examination of the series of Bathurst riots. One of the interesting proposals that they make in conclusion is that there needs to be more attention given to ways of developing 'tacit contracting' with the groups to be policed, whereby the groups assume the major burden of responsibility for control of their members in public settings. This is a challenging proposition. It brought to mind the tale, recounted in Robert Reiner's excellent *The Politics of the Police*, of the English police horse used for patrolling public demonstrations. It is claimed that at critical moments, when it was sensed that the public mood was swinging against the police, on command the horse would dutifully roll over onto its side, feigning injury, guaranteeing thereafter the co-operation of the animal-loving English crowd. While this strategy

might conceivably not work with Bathurst bikers, the police undoubtedly do need to develop more 'low policing' tactics for dealing with hostile groups.

In conclusion both these books contain important lessons for anyone interested in public policing in contemporary Australia. It is to be hoped that the messages contained in these two volumes will not go unnoticed by senior police managers and police union leaders. There is no reason at all why police unions should not take up some of the arguments offered in these books, and seek to press the merits of them upon police management. It would be refreshing to see some progressive, proactive leadership of this kind among Australia's police unions. To take up at least some of the suggestions made in these two books would not be akin to dining with the Devil, certainly at least if the suggestions of scholars like David Bayley were being considered. In his essay for Chappell and Wilson on the community policing phenomenon, Bayley discusses the development of community policing in Australia in quite a positive light and gives credit to the police where it is due. However, he also is prepared to draw attention to the full implications of adopting this perspective, while at the same time highlighting the organisational advantages *to the police* of taking community policing seriously, a point which Freckelton and Selby tried to make in respect of external review of police conduct when they worked at the Victorian Police Complaints Authority, and which they reiterate in their contributions to both volumes. While Bayley notes a commitment among Australian police officers to the notion of community policing, he also observes a reluctance to explore its positive advantages. Part of the problem, he argues, is the tendency for the police to confuse community relations with public relations. There is no point to community policing if all it means is changing the public without changing the police. Community policing, he very reasonably suggests, is about obtaining feedback from members of the public. As he nicely puts it, 'If the police invite the public to a party, they cannot do all the talking and expect it to be fun for everyone'.

ANDREW GOLDSMITH
Senior Lecturer in Law
MONASH UNIVERSITY

Consumer Credit Law in Australia, by STEPHEN CAVANAGH and SHENAGH BARNES, (Sydney, Butterworths, 1988), lxxviii, pp 746.

Cavanagh & Barnes, *Consumer Credit Law in Australia*, Butterworths, 1988. This is an excellent book. As anyone familiar with the area will appreciate, describing Australian consumer credit legislation is a daunting task because of the scope and intricacy of that legislation. However, the authors, Stephen Cavanagh and Shenagh Barnes, have managed to produce a work that is both comprehensive and readable and in so doing have made this area of law more accessible to those with an interest in it.

The limits of their work, however, should be noted as, indeed, the authors do themselves. By concentrating on the new consumer credit legislation they

tend not to deal with the law governing some 80% of the consumer credit extended in Australia each year, namely, that credit provided by banks, credit unions and building societies which are largely exempt from the new legislation.

The book begins with a chapter containing a useful summary of the history of credit regulation and in particular of the new Australian initiatives in this area starting with the South Australian *Consumer Credit Act* 1972 and culminating with the (substantially) uniform *Credit Acts* which now operate in New South Wales, Victoria, Western Australia and the Australian Capital Territory. To present a complete picture this chapter also refers to the other credit legislation still in operation in some jurisdictions, most notably WA and Victoria which continue to allow hire purchase contracts to be entered into.

Chapter 2 deals with the administration and enforcement of the new legislation. In particular, there is treatment of the role of the Directors or Commissioners responsible for Consumer Affairs, the tribunals given jurisdictions under the legislation (the Commercial Tribunal in NSW, WA; the Credit Tribunal in the ACT; the Credit Licensing Authority and the Small Claims Tribunal in Victoria), the Courts, the responsible ministers and the secrecy provisions relating to information gathered under or for the purposes of credit legislation. Chapter 3 then deals with the related topic of the licensing and registration of credit providers. With a view to protecting the consumers of credit from incompetent or unscrupulous firms, the new legislation enacts a positive licensing system, that is, one which prohibits unlicensed persons from conducting a business as a credit provider. This system is dealt with in depth.

The heart of the book is in chapters 4–10 which deal with the transactions covered by the various Credit Acts, the regulation of credit and sale contracts, security, termination and unconscionable conduct. Chapter 4 is an exhaustive treatment of the scope of the legislation, explaining in detail, from a jurisdictional and transactional perspective, what transactions are covered and when. This is a complex subject which the authors have dealt with lucidly and comprehensively. The Credit Acts' regulation of the contractual activities of credit providers is dealt with in Chapter 5 together with the impact on such activity of other legislation such as the Trade Practices Act 1974 and the various state *Fair Trading Acts.* Chapters 6 and 7 deal with the regulation of credit and sales contracts respectively leaving Chapter 8 devoted to security under the Credit Acts and Chapter 9 to deal with the termination and enforcement of credit and associated contracts. The vexed topic of unconscionability is covered in chapter 10 which concentrates, as one would expect, on Part IX of the NSW *Credit Act* (and equivalents) dealing specifically with this topic.

However, the authors also include a valuable treatment of the application of the NSW *Contracts Review Act* 1980, of s. 52A of the *Trade Practices Act* 1974 and reference is made to the common law where this illuminates the statutory provisions.

The final chapters of the book deal with the regulation of contracts of

insurance and guarantee made in connection with consumer credit contracts and with home finance contracts. This last topic (Chapter 14) is especially useful as it deals with the special provisions in NSW, contained in the *Credit (Home Finance Contracts) Act* 1984, which regulate aspects of consumer home finance contracts.

To anyone working in the area of consumer credit, this book will be indispensable. It is comprehensive, well written and an excellent source of reference.

PHILIP H CLARKE
Associate Professor, Commercial Law Division, School of Management
DEAKIN UNIVERSITY