

## Book Reviews

### Banking Law in Australia

By A Tyree

Butterworths, 3rd edition, 1998, ppdxl, \$79.00 (pbk)

Alan L Tyree (Bsc, Msc, Phd, LLB (Hons)) is the sole author of all three editions of *Banking Law in Australia*, the first of which was published in 1990. The text covers a broad range of topics which are logically and succinctly organised into twelve separate chapters, including 'the banker-customer relationship' and 'negotiable instruments'. This well-established text, directed primarily at students, aims not to add anything new to the area of banking law in Australia, such as political or policy argument, but rather to refine the structure and layout of the previous edition and to update it in terms of new developments within the law. As one would expect from a text entering its third edition, the coverage of the topic areas is very thorough and the selection of the areas themselves is clearly set out. The text will no doubt be a much-valued tool for academics and practitioners and is an excellent resource for students of banking and finance law. It is easy to understand and quite interesting to read which is a great achievement for a text in this genre.

Tyree, former Landerer Professor of Information Technology and Law (Faculty of Law, University of Sydney) states that the most significant development in banking law since the second edition is the release of the Financial System Inquiry Final Report, the *Wallis Report*. While there is little change to the structure and layout of *Banking Law in Australia*, and much of its substance remains unaltered, many recent and important developments in banking law have been discussed in the third edition. These include the *Wallis Report* which recognises the development of electronic commerce; recent privy council decisions clarifying debated points of law; a NSW decision reaffirming the trend of holding bankers responsible for forgeries when the customer has been 'negligent', and discussion of the practical ramifications. The text also discusses recent changes in the way we bank, such as the use of smart cards, digital cash and on-line banking.

The three main criteria for judging a textbook which is essentially black-letter law are generally: that it covers the area of law, that it is interesting to read, and that it is understandable. The book is very successful because, although essentially black-letter law, it is very interesting to read. Each section, chapter, and indeed the book itself is not intimidatingly long for the student (540 pages), as many texts in this area tend to be. While banking law is obviously not everybody's main area of interest,

many students will find the *Wallis Report* on the future of banking interesting, both because of some of the astounding statistics it uncovers and because of the inevitable ramifications of material within it upon their own lives in the future.

*Banking Law in Australia* appears to achieve its goal of thoroughly covering the material which it claims to discuss. Each of the twelve chapters contains sufficient detail on the relevant areas of law to be useful to both practitioners and students, particularly the sections on cheques. Of particular importance are the above-mentioned new additions to the book, updating the previous edition with the developments in banking law that have taken place over the last three years. Each of these developments is discussed in detail, including many of their practical ramifications. There are no noticeable omissions made by the author, and the index, table of cases, table of statutes and citations are all of the highest quality.

The introductory chapter explains many of the principles and regulations which underlie the remainder of the book. It is very helpful to students and the book often briefly summarises areas it has previously covered so that the reader does not get confused. Each section under the various topics is well paragraphed and clearly headed. The arguments under each section seem logical and convincing. The style of writing is clear and easy to understand which is commendable of any author discussing what many would label 'legal jargon'. The organisation of the book allows the reader to locate the various sections of the book with ease.

There are two other main texts being used in this area of law in Tasmania: *Banking Law and the Financial System in Australia*,<sup>1</sup> and the *Australian Law of Financial Institutions*.<sup>2</sup> Student consensus appears to be that *Banking Law in Australia* is a better book because these other two texts tend to repeat themselves which can make reading frustrating. Weerasooria's text is aimed more at students studying a practical banking course and is perhaps not suited to the law student. Students have further noted that Blay and Clarke's text is difficult to read and appears to lack communication between the authors resulting in overlap between the chapters, particularly parts 3 and 4.

The success of this book in satisfying the above three criteria results in a text which will be valuable to academics, practitioners and students alike. The book is up-to-date, its arguments easy to follow and convincing, and

<sup>1</sup> Weerasooria, *Banking Law and the Financial System in Australia*, 4th ed., Butterworths, Sydney, 1996.

<sup>2</sup> Blay and Clarke, *Australian Law of Financial Institutions*, High Court Brace, Sydney, 1998.

it is very well organised. *Banking Law in Australia* is everything one would expect of a text entering its third edition, and should be the student's first choice in this area of law.

*Hamish Millar\**

### **Criminal Procedure: Second Edition**

**By John B. Bishop**

**Butterworths, 1998, pp dclxvii, \$135.00 (pbk)**

Criminal litigation constitutes a central pillar of the legal system upon which citizenship is based. This significance is reflected in the second edition of the authoritative work recently published by John B Bishop entitled, *Criminal Procedure: Second Edition*. The density and complexity of this aspect of the law necessitates a text of this calibre to assist those affected by, or concerned with, the administration of criminal justice. As such, members of the judiciary have eagerly anticipated the publication of the second edition. The revision of this authority has been long overdue, however the standard of the text may well justify the delay.

First published in 1983, the first edition 'dealt with procedure alone and made available in one treatise a comprehensive treatment of the subject' which was to be subsequently reprinted in 1984, 1986, 1988, 1989 and 1991. This fact alone provides a clear demonstration of the popularity and relevance of the text throughout the years. At this point in time, Mr Bishop's work remains the seminal authority on criminal procedure from a national perspective.

By amalgamating jurisdictional patterns, Mr Bishop achieves a depth of insight into the function of criminal procedure hitherto absent. The significance of the text is further highlighted by the fact that 'in the smaller jurisdictions where no practice books are available it will constitute the only source of authority on criminal procedure'.

In his capacity as acting Attorney-General, the Honourable N A Brown QC, MP reiterates his endorsement of the author's work, commending Mr Bishop for the comprehensive nature of the text. By addressing the field of criminal procedure in its totality, the author is able to elucidate those principles and elements of law common to all jurisdictions. This inclusiveness remains the primary virtue of the text.

The author has two central aims, namely,

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