

sample questions, as well as a suggested method for approaching and responding to these questions. Correct responses are not expressly provided for the self-testing questions; however, all necessary information is contained in the text of the relevant chapter.

The text is primarily concerned with the law of New South Wales, although most of the concepts dealt with are common throughout Australia. Any differences arising between any of the State and Territory jurisdictions are generally noted by the author. The concise overview of each aspect discussed provides a good introduction to the Australian legal system. This brevity, at times, may result in a lack of depth and detail. However, in the main, the author is not overly simplistic and a good overview of each topic discussed is provided. He also states in the preface to this text that its purpose is to 'provide a pathway into the more detailed and generally excellent writings in introductory law subjects'¹ and that it was not therefore intended to be a comprehensive text. Rather, it is anticipated that it will be useful to students as preliminary reading prior to referring to set texts.

This text has been recently short-listed for the '2002 Awards for Excellence in Educational Publishing' in the category of TAFE and Vocational Education, testifying to the quality of this latest edition and its recognition as a valuable text. It is straightforward and easy to follow, and generally provides a good starting point for the study of law. It is not possible to offer many criticisms of *Understanding the Australian Legal System*. John Carvan has been successful in creating a comprehensive introductory text to Australian law.

*Stephanie Iernio**

Ethics in Law: Lawyers' Responsibility and Accountability in Australia

Ysaiah Ross

Third Edition, Butterworths, 2001, pp 566, \$88.00

The increased public scrutiny of the legal profession in recent years has led to a greater focus on professional ethics and accountability. Legal ethics courses are now recognised as being an essential part of legal education. *Ethics in Law* provides students with a detailed account of the responsibilities of lawyers in practice and the ethical issues that they may confront.

¹ Carvan D, *Understanding the Australian Legal System* (2002) vii.

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The text provides a comprehensive overview of the case law in each Australian jurisdiction. The inclusion of case law, legislation and professional rules from other jurisdictions outside Australia is a real strength. The main overseas focus is on the US and there is an abundance of material from this jurisdiction. However, the importance of other common law jurisdictions, such as Canada and England, is also emphasised. Most chapters begin with a brief history of the topic. This gives the reader some background material that enables them to gain a better understanding of the subject. It also provides some very interesting reading material.

The first part of the text gives an overview of ethics generally and relates how lawyers are affected by the ethical framework. The major ethical theories are outlined and critically analysed and their importance to lawyers is also examined in detail. Ross often uses examples of films, television programmes, books and quotations to illustrate his points in this section of the text. Such usage makes the text easy to comprehend and provides an extremely entertaining writing style. The chapter on professionalism is well written; however, the section on the professional codes is quite brief and the position in each State jurisdiction is not explored in any detail.

The next section deals with the structure and regulation of the legal profession. Two chapters look at the current and historical structure of the legal profession and also focus on the current and proposed regulatory regimes. A critical analysis of contentious areas, such as the continued self-regulation of the profession, is especially useful in providing a balanced understanding of the issues.

There is fantastic coverage of the Australian and US case law in the chapter dealing with admission to practice, particularly in relation to the 'good fame and character' requirement for admission. Australian Law Reform Commission reports and reports from other bodies are also given consideration. Similarly, the chapter on discipline provides a plethora of case law concerning professional misconduct, and a section analysing possible reforms to the area. However, there is insufficient coverage of the professional rules, procedures and disciplinary bodies in each State jurisdiction. There is some usage of professional rules in other areas of the chapter, but the main focus seems to be on case law.

In the subsequent part, the text deals with the lawyer-client relationship. The first chapter deals with the lawyer's duty to represent clients. The chapter begins with an outstanding discussion of the 'cab rank' rule in Australia and other common law countries. The exceptions to the rule are also outlined adequately; however, more detail

would enhance this section's usefulness. The chapter concludes with a comprehensive explanation of the case law and rules concerning a lawyer's duty to continue to act for a client.

The following chapter begins with a brief theoretical discussion of lawyer-client control models. A section on the lawyer's duty to obey the client is also included. This section is extremely effective in relating the duty to particular contexts, such as family law cases and guilty pleas. A diverse range of materials, including US studies, Australian Law Reform Commission reports and statistical reports, is used to good effect.

Subsequently, the book deals with contractual and tortious liability for lawyers, and also briefly discusses barrister's immunity and indemnity insurance. Summaries are available for all key cases, such as *Hill v Van Erp* (1997) 142 ALR 687, in the non-client liability for tort area. However, the passage concerning negligence is generally all too brief and the text would benefit from a more detailed discussion.

The following chapter deals with legal professional privilege and confidentiality in general. There is an analytical discussion of the privilege, its rationale and its application. Extensive coverage of the exceptions to confidentiality, particularly in relation to case law, is also provided.

The text then examines conflicts of interest arising through concurrent and successive representation of clients. One of the recent contentious areas, the use of 'Chinese walls' in large legal practices, is handled exceptionally well. The text makes good use of a large volume of case law from the US, England and Australia to outline the characteristics of 'Chinese walls' and the problems associated with them.

The final part provides an interesting discussion of the adversarial system and focuses on possible reforms and alternatives, such as alternative dispute resolution. There are also two chapters on the lawyer's duties of fairness and candour. There is a particularly detailed chapter on the duties in the context of criminal trials. Ross has made extensive use of the professional rules, as well as including both Australian and overseas case law. The text makes use of amusing examples from the experience of actual lawyers and fictional characters, such as *Rumpole of the Bailey*, which enhance the book's appeal and help to illustrate the writer's points.

Ethics in Law is an extremely well written text. Although some areas could be covered in greater detail, it contains a comprehensive statement of the law and issues regarding professional ethics and account-

ability. The extensive coverage of both Australian and overseas case law (especially US cases) is a real strength of this book. The professional rules are also examined; however, the abundance of case law has resulted in a limited discussion of the rules in some chapters. Ross's style and use of interesting examples, such as films, makes this an easily understood text that will be useful to any student seeking to comprehend legal ethics.

*Philip Bender**

Media Law: Commentary and Materials

Sally Walker

First Edition, LBC Information Services, 2000, pp 1076, \$138.60

With 'media law' being, in fact, a disparate set of principles encompassing various aspects of civil law, criminal law and legislative prescription, Walker's *Media Law: Commentary and Materials* makes no attempt to homogenise these disparate elements into a cohesive body, preferring to spread them across the seven sections of the book.

Part one is essentially an overview, dealing with 'The Media and Free Speech', and serving as a means of linking the subsequent portions. Through comparison between various international positions, and the Australian position – particularly regarding the 1992 High Court 'free speech cases' and their subsequent application, dissection and retraction – Walker has an opportunity to disseminate a more personalised argument than appears throughout this text. As the judicial pronouncements on this issue of free speech are sparse, apart from the string of High Court decisions from the 1990s, which Walker extracts, current debate seems to have been bypassed in favour of a list of further readings, giving the reader an impression of finality that is perhaps not the case.

Part two focuses on defamation and injury of reputation, trade or business. Positively, Walker explains defamation action arising both under the common law and as available under statute in some Australian States; this legislative position is often passed over even by tort law texts. While the majority of cases extracted and discussed obviously involve the media, no attempt is made to constrict artificially the discussion and explanation by examining defamation solely in reference to the media. Walker's explanations and extractions are thoughtful and appropriate, although it is suggested that the inclusion

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