

Maher, Waller, Derham: *Legal Process Commentary and Materials*

Fifth Edition by Malcolm Smith and Kevin Pose
The Law Book Company, Sydney, 1988
Hard cover \$55.00 Soft cover \$39.50

The aim of this text is to familiarise the student with the basics of the Australian legal system and to help develop legal analysis and research skills. Easy-to-read chapters explain pre-trial and trial procedure of both civil and criminal cases, the passage of legislation from first reading to law, basic concepts associated with decisions such as *ratio decidendi*; and the origins of both the common law and statute law. The text introduces aspects of the Australian legal framework by relating their operation to the study of a motor vehicle accident (the facts of the Victorian case of *Benson v. Lee*), enabling the student to learn by example rather than requiring an immediate understanding of abstract concepts.

The text raises at an early stage the availability of alternative dispute resolution, demonstrating to the student that a trial with its attendant cost in time, expense and effort is not the necessary conclusion to differences between parties. The Fifth Edition introduces into its discussion of the origins of Australian law the question of Aboriginal law and includes a detailed examination of the Australia Act 1986. The sections dealing with precedent and statutory interpretation are concise and informative.

Discussion questions provide a useful aid for learning and the student is encouraged to evaluate the law rather than merely accepting it at face value. Further, the text is divided into self contained units dealing with the Australian legal system, dispute resolution, the common law, legislation, and judges as law makers, enabling those areas to be taught in the order desired by the individual teacher.

The main failing of the text is the continued absence of an index, the detailed table of contents not adequately fulfilling this role. This is particularly disappointing in the case of a text targeted for the first year student. Also, while it is only an introductory text, at times it cites Victorian Rules of Court and legislation without stating the equivalent provisions applicable in other state jurisdictions, which may confuse the first year student.

Nevertheless, the text remains an instructive and useful tool for the student to lay the foundations of legal training, in addition to being a handy reference for the practitioner, particularly in the areas of precedent and statutory interpretation.

Des Butler LL.B. (Hons) Q.I.T.
Solicitor