
Book Review

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**J F Corkery, *Starting Law*¹, Scribblers Publishing
Mudgeeraba, 1999, 263 pp**

This book is essential as well as pleasurable reading for any law student contemplating studying law. It provides the reader with an overview of our Australian legal system, its common law traditions and conventions and the effect of European colonisation on aboriginal people. It alerts the reader to some recent developments in the legal profession: the more active and interventionist role of the judiciary in managing litigation, the use of new forms of dispute resolution, the application of competition principles to the legal profession and the pressure for outside regulation.

The author describes legal principles, core principles of precedent, statutory interpretation, due process and the rule of law. The history and the rise of our equity courts is discussed, as are advocacy and the trial process. The legal profession, their ways and ethical dilemmas are touched on including codes of professional ethics, duty of care of solicitors and barristers immunity from suit.

The various categories of law and the views of legal philosophers on precedent are explained. The author gives us an insight into the commercial world of companies and partnerships and discusses the workings of our constitution and the *Mabo*² and *Wik*³ decisions. He juxtaposes in many cases the strengths and limitations of alternate systems and practices such as inquisitorial versus adversarial; the fused profession versus the divided profession and the difference between the work of solicitors and barristers. He further compares the Chinese legal system where legislation on human rights and freedoms need to be developed. He discusses the pitfalls and strengths of precedent including judicial creativity versus judicial constraint. This methodology facilitates a speedy uptake of the subject by the reader.

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¹ On the Front Cover is a copy of a painting by Alan Bond called "Inferred Justice" (1999).

² *Mabo v State of Queensland (Mabo No 2)* (1992) 175 CLR 1.

³ *Wik Peoples v State of Queensland; Thayorre People v State of Queensland* (1996) 187 CLR 1.

The author poses questions obvious to a critical thinker. For example, if manipulating opinions and facts is the essence of the legal profession are lawyers prostitutes in law? Is being a lawyer a craft of deception and tricks focussing on best arguments rather than the truth? Are justice and the law diametrically opposed?

Corkery explains to his audience that lawyers in the adversarial common law system present their clients' best possible case to the best of their abilities. Lawyers do have a primary duty to the court and justice. They cannot mislead the court, "distort the truth, suppress evidence or assert the innocence of a person they know to be guilty".⁴ The author reassures us that justice is valued by principled lawyers who protect the liberty of the individual, guard their civil rights and "act as bastions against tyranny in society".⁵ The law also allows the pursuit of reasonable commercial activities by citizens.

The student is taken through the Australian Constitution, the Westminster system, stare decisis and court hierarchies, and right of appeal. Cross vesting, preliminary hearings and courts of summary jurisdiction are explained. The author concurs with the views of George Williams⁶ that Australia should follow the United States Supreme Court example and give one determination and one set of reasons.

Corkery captivates the reader by his engaging style of writing adopting plain and non discriminatory language to demystify the common law. He introduces his readers to important English, American and Australian legal figures adding a historical dimension and richness through biographical extracts. Extracts from Irving Younger, Clarence Darrow, Lord Denning and Sir Edward Coke, to name a few, light up the pages and provide role models and "affirm the dignity and overall effectiveness of the legal system."⁷ The reader is introduced to the lawyers in the early years of the colony. The book includes anecdotes laced with humour. For example, when Sir Owen Dixon announced his intention to pursue law study his Classics Professor disdainfully replied "You will find that very medieval".⁸ There is also an extract from Professor Irving Younger's wonderful account of the one question too many.⁹ He states that in a common law system judges and their words are pivotal. He marries English and legal literature citing examples of good writing and oration from Churchill, Lord Denning, Justice Kirby, Younger, Kennedy and Hemingway. He illustrates *US America v Gonzales*¹⁰ as a judgment with panache.¹¹

He assures the reader can do well at law by applying the simple and honest attributes of dedication, motivation, common sense and a focused mind. Not all successful people in the legal profession necessarily were outstanding at university and he debunks the elitism associated with law and the legal profession.

⁴ At 23.

⁵ At 15.

⁶ *The Australian* 25 November 1998.

⁷ At 100.

⁸ At 18.

⁹ At 232.

¹⁰ *United States of America v Gonzales* (1881) US District Court, New Mexico Territory Sessions.

¹¹ At 83.

The author states that the skills of a lawyer are legal writing, interviewing clients, advocacy, dispute resolution, legal research, and computer literacy. He suggests practical hints and methods on how to write well, study law, answer examination questions and write legal letters and opinions. He includes a style guide used by the *Bond Law Review* and the *Revenue Law Journal*, Miles Julian Hefferman's tips on how to write for the internet, and Pat Quirk's twelve tips on how to look for a job.

The author introduces the reader to the history and development of primary and secondary sources in law. He explains plagiarism and the importance of a law library and its transition to digitised distribution to the student's desktop. He provides some websites and references to books dealing more comprehensively on this topic.

The author covers much ground and does so in a concise, well structured and enjoyable way.