
Book reviews

Editor: Angelina A Gomez

ZINES'S, THE HIGH COURT AND THE CONSTITUTION

Zines's, The High Court and the Constitution (6th ed), by James Stellios, Federation Press, 2015, 723 pages +xxviii tables: ISBN 9781760020248. Hardcover \$158.00.

The late Professor Leslie Zines first produced this work in 1981. Since then there has been a new edition about every six years. Professor Zines died in 2014. The present edition is the work of Associate Professor James Stellios of the Australian National University who had access to Professor Zines' notes made following publication of the fifth edition in 2008.

As the present author says in his preface, this iconic work has over its various editions offered students, practitioners, judges and policy-makers a sophisticated and deep analysis of the cases matched by an exceptional ability to place constitutional law in its broader context, evaluating doctrinal principles against constitutional values and policy considerations.

The book contains 17 chapters, the first three are historical and general. Then follow chapters on "Trade and Commerce Power", "Corporations Power", and three chapters on s 92. Chapter 9 then deals with the "Separation of Powers" and Ch 10 with the "Judicial Power of the Commonwealth". The balance of the book deals mainly with the executive, internal and external affairs and relations with the States.

The topics that the book covers are dealt with comprehensively and critically. However, not every significant constitutional provision is covered.

The style is refreshing. For instance, when considering the early cases as to how far the Commonwealth could impact on the functions of the States and their instrumentalities, the author says: "The notion of separate coordinate governments, each independent and supreme in its own sphere and one not fettering or burdening the other in any degree was, of course, impossible in practice" (p 4).

The Court's judgment in the classic *Engineers' Case* (1920) 28 CLR 129 is said to be "in large part very loosely reasoned and badly organised. It is written with more fervour than clarity. Much of the reasoning is difficult to understand: for example, the reasons given for not following United States decisions" (p 11).

In the authors' final conclusions, they say that they appreciate that the High Court has had a very difficult task. However, even with this in mind, "this book has not been exactly a hymn of praise ... Few, even among the judges, would, for example, deny that the history of ss 90 and 92 is something of which the Court cannot be proud".

It is a fine thing that this iconic work has been brought up to date. The work still demands a place on the thinking Australian lawyer's shelves.

Acting Justice Peter W Young AO