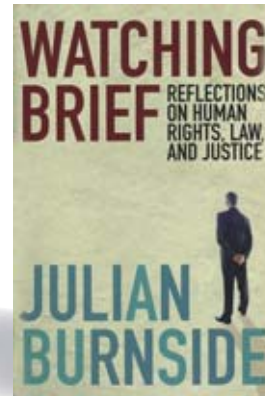
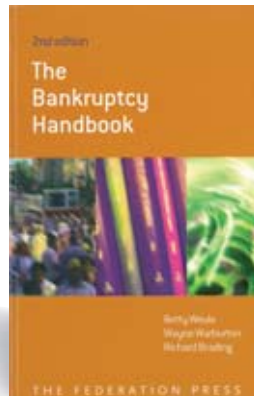
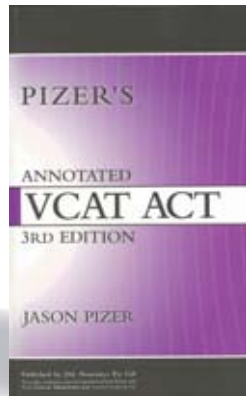
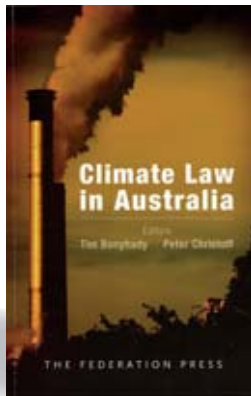


INPRINT



This month's reviews look at climate law, VCAT procedures, bankruptcy, and reflections on law and justice.

Climate Law in Australia

Tim Bonyhady and Peter Christoff (eds), *Climate Law in Australia*, 2007, The Federation Press, pb \$59.95.

Sharply written by acknowledged experts in practice and academia, *Climate Law in Australia* is an excellent introduction to this burgeoning field emerging from environmental law with a purely Australian perspective. Some key issues engaging the legal community and examined in this book include carbon trading emissions, climate change, geosequestration, nuclear decision making and an analysis of recent state and federal jurisprudence exploring the environmental language in the courts.

The chapter by the director of the Australian Centre for Environmental Law at the ANU, Tim Bonyhady, provides the tools to guide the uninitiated through the legal policy and cases, building a platform for the increasingly detailed chapters that follow. There is no blind obedience to the past tenets of climate law here. Andrew McIntosh analyses the redundancy of a greenhouse trigger in the *Environment Protection and Biodiversity Conservation Act 1999*, which until recently would have been considered environmental heresy.

Professor Jan McDonald of Griffith Law School tackles the legal risks of climate change impacts, citing current situations to demonstrate the tenuous balancing act between adaptation and mitigation and the varied approaches of government planning law on this issue.

Charles Berger of the Australian Conservation Foundation explores the consequences

of government decision making in the ongoing operation of the Hazelwood power station, and the role planning legislation played in attempting to bury the project.

The complicated issue of carbon trading markets is denuded by Martijn Wilder and Monique Miller, who also propose issues moving forward into a national Australian scheme. This is developed by Peter Christoff's chapter on carbon emissions trading and Australia and Rob Fowler's contribution on emissions reduction target legislation.

There is a timely look at geosequestration law in Australia and a list of concerns for policy makers on this controversial area.

Lastly, the chapters commenting on climate law in the courts and the limits of judicial review are succinct, informative and do not require the reader to be a devotee of environmental law to comprehend the nuances of the cases discussed.

After reading this book you will be left in no doubt that any government climate policy is piecemeal, changeable, often circumvented and competing with other interests at a local, state, federal or international level. But rather than fuelling despair, this book shows there is a path forward to galvanise action to learn and remedy earlier mistakes.

FRAN JOUBERT
FORMER LIV PARALEGAL

Pizer's Annotated VCAT Act (3rd edn)

Jason Pizer, *Pizer's Annotated VCAT Act (3rd edn)*, 2007, JNL Nominees Pty Ltd, pb \$130.

During a recent hearing before Victorian Civil and Administrative Tribunal (VCAT)

acting president Judge Bowman, his Honour was attempting to explain a complex procedural point to a self-represented litigant. Failing this, his Honour "offered a copy of *Pizer's Annotated VCAT Act*, but [the litigant] already had a copy with him" (*Skinner v Slater and Gordon Pty Ltd* (Civil Claims) [2007] VCAT 917, para [5]). This paints a vivid picture of the difficulties faced by members of the public in understanding legal proceedings – even the simplified and informal procedures used at VCAT. It also illustrates the value of resources such as Pizer's book in making such procedures comprehensible.

This work is both comprehensive and concise. As stated in the preface, the book is designed to be used by all those involved in disputes at VCAT. Whereas three volumes of *Williams' Civil Procedure* is appropriate for litigation in the Supreme Court, this handy reference is suited to explaining procedures in the "people's tribunal". The clear layout, the detailed but sensible index and extensive cross-referencing demonstrate the author's skill as a barrister and writer.

The 3rd edition incorporates important decisions of both VCAT and the courts in the past three years. The Supreme Court has dealt with thorny issues such as whether the *VCAT Act* authorises newspaper publishers access to sensitive information on VCAT proceeding files. It also incorporates legislative changes, such as new jurisdictions conferred on VCAT regarding regulation of the legal and health professions, working with children checks, and disability issues. Already receiving over 80,000 applications each year, VCAT's workload will only grow.

Overall, this book is commendably easy to follow and user-friendly. It includes a useful overview of the *VCAT Act*, including the history of the formation of VCAT, its structure and organisation, and the Minister's second reading speech.

The growth of VCAT's jurisdiction shows that informal procedures and alternative dispute resolution are the way of the future. There will always be a need, however, for simple and concise procedural guides. The value of this work is that it makes VCAT's procedures accessible to the thousands of ordinary Victorians who use the tribunal each year.

BILL SWANNIE
VCAT ASSOCIATE

CORRECTION

In the review of this book in the May 2008 inprint column, the publication details and cover image incorrectly referred to the 2nd edition instead of the 3rd. The actual review (reproduced here) is of the 3rd edition.

The Bankruptcy Handbook (2nd edn)

Betty Weule, Wayne Warburton and Richard Brading, *The Bankruptcy Handbook (2nd edn)*, 2007, The Federation Press, pb \$29.95.

This publication provides a succinct overview of the processes involved in personal bankruptcy. It has been significantly updated to include the most recent amendments to the *Bankruptcy Act*. It is primarily directed to financial counsellors and is written from the debtor/bankrupt's perspective rather than the creditor's. However, it does provide practical assistance for anyone practising in the field of bankruptcy.

The book is divided into a number of short chapters which cover the way somebody can become bankrupt, the formal requirements following a sequestration order, the duties of the bankrupt and the powers of their trustee in bankruptcy to administer their affairs and the alternatives to bankruptcy, such as personal insolvency agreements. There are also several chapters devoted to specific areas such as taxation, superannuation and family law. The book is generally a practical handbook for advising or representing people entering bankruptcy and as such, while it limits formal legal commentary to a minimum, it is written in a very practical style.

There are several helpful appendices, including contact details for Insolvency and Trustee Service Australia, internet resources and a glossary of terms. The three co-authors are from the financial counselling and community legal service fields, which helps to explain the general focus and perspective. However, they find the space to include an entertaining few pages dealing with

the history of bankruptcy and bankruptcy within Australia. Perhaps they hope that reminding debtors that bankrupts were once literally cut into pieces among their creditors (Rome); had their wives and children sold into slavery (Palestine); or were sentenced to death for fraudulent behaviour or had an ear cut off or were pilloried in public for various misdemeanours (England until 1813) might help them tolerate the relatively lighter treatment of bankrupts today.

MARK WORSNOP
KAHNS LAWYERS

Watching Brief

Julian Burnside, *Watching Brief: Reflections on human rights, law and justice*, 2007, Scribe, pb \$32.95.

Watching Brief by QC and prominent human rights advocate Julian Burnside contains wide roaming reflections on law and justice.

Starting with his 1960s school days as a driven misfit, Burnside lays out the chain of accidents that led him to attempt the pursuit of justice as a profession and impelled him into his ongoing horn-lock with the major human rights issues of today: the treatment of asylum seekers; the David Hicks betrayal; the compulsion of Nauru into the Pacific "Solution"; and permissible trading of civil rights for security from terrorists.

Burnside does not view these issues from the shadow of the bench. He is there at the "family friendly" detention centre at Baxter, writing scathingly on the double speak necessary to sugarcoat the enormity of what goes on behind the "courtesy fences": "... they are also disparaged as queue jumpers: a neat device which falsely suggests two things: first that there is a queue and second that it is in some way appropriate to stand in line when your life is at risk".

The first portion of *Watching Brief* is a reasoned, accessible and impassioned polemic of the shrinking of the former government's conception of what a just country owes to those that fall under its power. It is also a potent "j'accuse" to those responsible.

Abruptly (and to fine effect in my view), the book then breaks into a series of short portraits of the great cases of the past two centuries. In sparse prose, Burnside covers, among others, Sir Arthur Conan Doyle fighting for the falsely accused Oscar Slater, thrill killers Leopold and Loeb, the US Supreme Court affirming slavery in the *Dred Scott* case and the bizarre love triangle in *R v Rattenbury & Stoner*.

The cases in the last part of *Watching Brief* are old history. It remains to be seen if the new government can turn the shocking accounts of the first part of this book into a remembrance of things past. ●

DAVID SMITH
SOLICITOR



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