LEADING CASES IN AUSTRALIAN LAW: A guide to the 200 most frequently cited judgments

Daniel Reynolds and Lyndon Goddard; The Federation Press, 2016; 480pp; $79.95 (paperback)

Leading Cases in Australian Law is the first casebook in Australia, and the only casebook published in the 21st century, to provide succinct summaries and analysis of the most significant cases in Australian law at large. As Chief Justice Robert French notes in his foreword to the book, the text is part of a venerable tradition of casebooks dealing with leading cases in all areas of law. However, *Leading Cases* is a thoroughly modern iteration of its predecessors, and will serve as a very useful point of reference for present day students and practitioners.

The tradition of which the Chief Justice speaks began in 1837, when John Smith wrote *A Selection of Leading Cases on Various Branches of the Law with Notes* (Sweet and Maxwell, 1st ed, 1837). By the time the final edition was published in 1927, this book had evolved into a portly tome stretching across two volumes. Well before the final edition was published, a further navigational guide had become necessary, in the form of John Indermaur's *An Epitome of Leading Common Law Cases: With Some Short Notes Thereon: Chiefly Intended as a Guide to 'Smith's Leading Cases'* (Stevens & Haynes, 1st ed, 1873). Thankfully, *Leading Cases* is shorter in both the length of its title and its text.

The authors have adopted a data driven approach by using LexisNexis's database to collect the 200 most-frequently cited cases in Australian law. They have then condensed the facts and judgments of often long and difficult cases into outlines of less than a thousand words each, accompanied by rather useful one-sentence distillations of the key proposition for which each case has been cited subsequently. A brief but pertinent commentary outlines any other major propositions and finer points of each case, related principles, as well as important subsequent developments. Key statements are extracted from the judgments in each case, by using BarNet Jade to choose, empirically, the passages most cited subsequently. The brevity of the analysis is welcome, given the wealth of detailed texts and articles on any subject available to the modern lawyer. For longer and deeper analysis, one need only follow the references provided with each case.

The book serves both as an excellent primer for students as they study these leading cases, and a quick reference for practitioners, lest they forget the sources of the principles they most commonly rely upon. Familiarisation with this book should save the inexperienced student or lawyer embarrassment when someone brings up the principle in *Williams v Spautz* or from citing the incorrect authority for the definition of jurisdictional error.

Besides being a faithful reference book, *Leading Cases* is also an interesting read — an elusive quality in a casebook. Many practitioners will enjoy picking it up to test their own knowledge. The appendices contain a 'hall of fame' of judges who are most often cited, as well as a list of 'fast risers' — more recent cases that are cited with great frequency. The legal aficionado will be interested to note that the *Engineers' Case* [(1920) 28 CLR 129] does not feature in this list and that the *Tasmanian Dams Case* could only be reduced to two principles rather than one. (I suggest the authors can be forgiven for that.)

The authors' empirical approach has yielded a fascinating list, but it has meant the omission of several seminal cases that might have been included in a curated list. Brevity, too, is a double-edged sword — there will always be those looking for more detailed analysis and commentary. One can imagine how these problems might have been overcome if the book were published in electronic form, with the advantages of hyperlinks and expandable text. It will be some time before that technology becomes widely used among lawyers, and perhaps then the authors can bring John Smith's tradition kicking and screaming into the 21st century. In the meantime, the authors have proven themselves capable custodians of this long tradition.

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CHASING ASYLUM

Director, Eva Orner; CinemaPlus/Nerdy Girl; 2016; 96 minutes (documentary)

When *Chasing Asylum* was released in May, its Oscar-winning director Eva Orner said that she wanted to make a film that would shock people; her film has clearly delivered on that promise.

The film includes unprecedented footage from inside detention centres, and interviews with some of the many people caught up in Australia's 'border protection' system: the detainees, the guards, the social workers, the family members who will never see a loved one again.

The scenes from inside the centres on Nauru and Manus Island contain a few confronting moments, such as a man with his lips sewn up, but the effect of most of the footage and testimony is cumulative. Over the course of the film, a picture slowly builds of people being subjected to inhuman conditions, giving up on any hope of a better life, while our politicians proudly proclaim that they have not the slightest concern about the human toll they are creating.

In one powerful moment, a social worker talks about a delivery of toys sent to Nauru by Greens Senator, Sarah Hanson-Young. She describes seeing a young girl unwrap a soft pink teddy bear and squeal with joy as she rubs the bear over her face. The social worker and her colleagues are joyous before reflecting on how deprived a child needs to be before she will react that way. 'We felt like, "what the hell?!"', she says.

Orner doesn't shy away from difficult issues, including the claim that stopping the boats has saved people from drowning. Orner interviews the wife of an Iranian man feared lost at sea and then addresses the 'drownings argument' by quoting David Marr, who states that it is 'profoundly hypocritical' to claim a humanitarian purpose while treating people so abominably, and David Manne, who says that the policy merely sweeps people away to die elsewhere.

Orner also interviews the family of Reza Barati, who died after riots on Manus Island where locals and police officers broke into the compound, and Hamid Kehazaei, who died after his foot became infected. Hamid's mother had asked that his organs be donated after his death in a Brisbane hospital. That a man could die at the hands of our cruel immigration system while offering to save a number of Australians' lives at the same time is an image too distressing for words.

Chasing Asylum is a film that everyone should see. These things are happening in our name, and they are shameful.

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