

Book Review: Litigation Evidence and Procedure (6th ed.)

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Title: Litigation Evidence and Procedure (6th ed.)

Authors: Aronson, M. and Hunter, J.

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This is a most ambitious book incorporating as it does a discussion and analysis of legislation, case law and court rules in the field of civil litigation and the rules of evidence into one, weighty, volume.

This is a sixth edition and the authors are a professor of Law and Associate Professor of law at the University of New South Wales, respectively.

Its focus is entirely Australian and its emphasis is practical. From a general introduction to civil procedure, its contents range through preliminary considerations such as the value of taking proceedings at all and the nature of originating processes, to a discussion about parties and Causes of Action, Pleadings and Amendments. From there the emphasis shifts to the gathering of evidence, including the discovery process and then to part seven which deals with issues in Police investigation.

Sections 8 to 14 relate to aspects of the rules of evidence in criminal trials including parts covering warrants, searches and prosecution of the trial itself. From Section 15 the emphasis of the book moves to general principles in the rules of evidence such as the hearsay rule and its exceptions and the role of and limitations of the testimony of witnesses.

If the book has any general "short coming" it must be in its extensive almost excessive canvas, yet with its sustained emphasis on the practice of the issues discussed it provides many invaluable suggestions, tips and clues to new and experienced practitioners alike in the field of litigation. For example sections 19 and 20 detail issues concerned with dealing with witnesses. Those sections cover a wide range of up-to-date problems such as (at page 874 and following) the questioning of an accused about a complainant's 'motive to lie' particularly in sexual assault cases and at p.877 the issue of recovering repressed memories.

There is a genuine and ultimately successful attempt to differentiate yet integrate the principles of evidence as they apply respectively to criminal or civil proceedings. Of course this too adds considerably to the amount of material and the value of the book to the generalist reader.

The legislation and case authorities referred to are Australian and the authors have tried to give the book a national rather than purely state by state focus. The need to address the complexity of variations between states of Australia makes the book rather cumbersome for use by practitioners in the South Pacific region, where different legislation and source materials apply.

Nevertheless the book should be a valuable additional resource to those involved in the processes of litigation and trial procedures, anywhere the same general legal principles apply.

