
Book reviews

Editor: Angelina Gomez

THE LAW OF OPTIONS AND OTHER PRE-EMPTIVE RIGHTS

The Law of Options and Other Pre-emptive Rights, by Donald J Ferrands, Lawbook Co, 2010, 185 pages + xxxvi tables: ISBN 9780455226316. Hardcover \$179.00.

This book is a sequel to the author's book "The law of Options" published by the Law Book Co in 1992. That work was reviewed by David Maclean in "Book Reviews" (1993) 67 ALJ 163 at 165. David wrote that this book was a good exposition of the authorities, though showing that the author's interests lay in the practical rather than theoretical realm. However, he recommended the book as valuable to the profession and likely to be popular.

The present book contains an update of Chapters 1-4 of the former book which now appear as Part II and are Chapters 2-5. Chapters 5 and 6 of the earlier book dealing with tax matters have been abandoned. Part II has been supplemented by a further excursus on "Remedies for Breach of an Option" (Chapter 6).

What is new are Part I, Chapter 1, "Pre-emptive Rights Generally", Part III, "First Rights of Refusal", Part IV, "Labelled Pre-Emptive Rights Bearing Other Characteristics", and Part V, Chapter 9, "Pre-emptive Rights in Joint Venture and Shareholder Agreements".

Other than Chapter 9, the new material is a fair discussion of the issues such as when, if at all, an exercised right of pre-emption becomes an interest in land.

I found Chapter 9 on pre-emption rights in the constitution of private companies etc, a little disappointing. Having had to examine the problems on hundreds of occasions over the last 50 years or so, I found the chapter really only scratched the surface. It may be that the strictures on the size of the volume constrained the author, and the subject matter is only indirectly related to the rest of the text. However, if one considers that a subject needs to be treated in a monograph focused on a discrete topic, one should cover it thoroughly.

Despite the author pointing out on a couple of occasions that decisions of mine seemed to stand outside prevailing views elsewhere, I found this book a useful addition to an equity lawyer's library.

Mr Justice P W Young

OPEN CONSTITUTIONAL COURTS

Open Constitutional Courts, by Patrick Keyzer, Federation Press, Sydney, 2010, 175 pp + xvi tables: ISBN 9781862877719. Hardcover \$85.00.

This book is substantially based on the author's doctoral thesis.

The book advances arguments in favour of one side of a contentious issue. That issue is whether ordinary citizens should have greater access to the High Court so that they can have rulings made on constitutional questions that concern them. Furthermore the author strongly suggests that such persons should not feel the threat of a swingeing order for costs being made against them.

The book is split into 8 chapters:

1. "Problems with access to constitutional justice".
2. "Rules restricting access to constitutional justice".
3. "Access rules and exclusion on the ground of identity".
4. "Representation of the public interest by Attorneys-General".
5. "Can amici curiae improve access to constitutional justice?"
6. "Theorising open constitutional courts in Australia".
7. "Procedures in an open constitutional court".
8. "Why we should have open constitutional courts".