

## Contract Law: Text and Cases (2nd ed)

By D Thampapillai, C Bozzi & A Bruce | LexisNexis Butterworths | 2016

There was a time when life seemed much simpler – legal research consisted of identifying the right key word in the case citator volumes and then consulting the appropriate law report. I did have a small bundle of unreported cases that I had collected from colleagues and opponents over time, but they never seemed to be quite on point to deliver that knock-out blow.

Now, the first half hour or so of my working day is taken up with reviewing the case alerts from the previous day and updating my card system by subject index; and even then there are several providers of such alerts (Jade, LexisNexis, Benchmark...). The man on the moon might be forgiven for thinking that the most important skill of a barrister is the ability to search and retain information from multiple electronic databases rather than the traditional art of advocacy and persuasion.

When I am briefed in a case that may give rise to, for instance, an equitable estoppel, it is to my card index and a recent case that I first turn. Textbooks still have their place and, for me, it is usually in areas with which I am less familiar: an advice in a less familiar area easily justifies purchasing a text book to get started before searching for recent cases that may not have made it into my card index.

In an area such as contract, there is a plethora of textbooks, but from a practitioner's point of view it is difficult to get past the status of texts such as Carter's Contract Law in Australia and Cheshire and Fifoot's Law of Contract (Australian edition) (Full disclosure requires me to state that I have not yet traced any common ancestor relevant to the latter, but I am ever hopeful).

The authors of Thampapillai, Bozzi and Bruce's Contract Law Text and Cases (2nd Edition) are not, however, trying to

break into the practitioner market – the introduction makes it clear that the book is aimed at law students and indeed the first chapter is headed An Introduction to Law School. Judged by its stated targets and aims, I think it is a success.

I still recall my tutor at college advising me that I would pass my degree as long as I could regurgitate the main cases in each area and identify the relevant principles and strands, but I would get a good degree if I could then add to that some independent thought, such as by identifying inconsistencies or gaps in particular areas. Her advice was helpful in an academic context and is helpful now in considering this book.

Applying that standard, this book has all the Chapter headings that one would expect: Offer, Acceptance, Consideration... The Doctrine of Frustration, Misrepresentation, Misleading or Deceptive Conduct... Termination for Breach, Remedies for Breach of Contract; there are useful headings within each chapter: The traditional model and alternative views [to offers], The global view of contract formation... A framework for invitations to treat, Mere puffery...; many of those headings have useful text boxes containing summary propositions: By puffery, we mean statements that induce a contract but that do not of themselves constitute binding offers. These are statements that are so far-fetched that no reasonable person would believe them; and there are useful extracts from many of the main cases, both from this and overseas jurisdictions. It also has a Key Points for Revision at the end of each Chapter that provide a useful checklist of useful propositions.

There are Review Questions, but I must admit to a reticence about answering them without being formally briefed and having signed a costs agreement!

So is there anything in this book that may give rise to independent, or at least useful, thought? I would say yes. To give one example, there is a useful discussion of what is described as 'The ambiguity gateway and the construction debate', which includes reference not only to the High Court dicta from *Jireh International Pty Ltd v Western Exports Services Inc*, *Electricity Generation Corp v Woodside Energy Ltd* and *Mount Bruce Mining Pty Ltd v Wright Prospecting Pty Ltd*, but also extracts from recent decisions of the Court of Appeal in Western Australia in *McCourt v Cranston* and of Sackar J in this state in *Campbelltown City Council v WSN Environmental Solution Pty Ltd*; and an extensive extract from *Zurich Insurance (Singapore) Pte Ltd v B-Gold Interior Design & Construction Pte Ltd*, a decision of the Supreme Court of Singapore, Court of Appeal that includes a comparative review of the relevant jurisprudence.

The chapter on estoppel is similarly extensive, although there is no reference to the current debate as to whether equitable promissory estoppel may be available as a sword or only a shield (see for example the discussion in the Court of Appeal of this state in *Ashton v Pratt*).

Overall, this is a sophisticated student text, incorporating jurisprudence not only from across Australia but also in other common law jurisdictions; and there is much that will prompt independent thought rather than simple regurgitation. It incorporates much that would be useful to a practitioner, particularly in its summary of recent authorities, and it will now be on my shelf (by virtue of preparing this review) as an early port of call before resorting to the text of the relevant recent authorities.

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