

To Constitutional Interpretation; Democracy and Judicial Choice — The Implied Rights Debates; and Judiciary And Parliament — Aligning Institutional Roles. The structure is an excellent guide to this topic area taking the reader through theory, major controversy and practical application.

Whilst many of the contributors to the book are well known academics in the field, such as George Winterton, the book usefully includes a contribution in the third section by Daryl Williams QC, currently Federal Attorney-General. His essay, 'The Australian Parliament and High Court: Determination of Constitutional Questions', looks at the role of parliament in resolving constitutional questions. He comments that 'parliamentary processes do not necessarily involve exposure of the reasoning by which parliamentarians arrive at decisions on constitutional questions' and proceeds to look at the procedures by which such deliberations are conducted. It is a fascinating essay offering a different perspective on practical constitutional interpretation which would have remained underestimated, particularly by lawyers, without this contribution.

The diverse team of commentators on the papers which are published also included distinguished judges, politicians, academics and legal practitioners. It would have been of interest to the reader if the written commentaries, which were apparently provided to the writers and workshops which led to this volume, could have been included.

Interpreting Constitutions is highly recommended for insight into constitutional theory (or how to think about constitutions); for its exploration of one of the main topics of constitutional debate in Australia — implied rights; and its description of how workers, such as judges and politicians, for whom the Constitution is the main tool of trade, use it every day. The book's list of references alone is a wonderful guide to contemporary thinking about constitutional issues and all other referencing in the book is very thoroughly done — great book thank you for asking me to review it.

SUSAN PHILLIPS

Susan Phillips is a Sydney barrister and a member of the Steering Committee of the Legal Forum on the Proposed Republic.

Environmental Outlook No. 2: Law and Policy

edited by Ben Boer, Robert Fowler and Neil Gunningham; The Federation Press Sydney 1996; 342 pp; \$49.95 softcover.

Like the first *Environmental Outlook* published in 1994, *Environmental Outlook No. 2* provides an extensive survey of recent developments in environmental law and policy in Australia, the United States, Europe and the Asian and Pacific regions. Both books arose out of the Environmental Outlook conferences held in Sydney and organised by the Australian Centre for Environmental Law (ACEL). ACEL was established in 1992 and is a co-operative venture between the Law Schools at the Australian National University, the University of Adelaide and the University of Sydney. The Centre is designed as a collaborative research and law reform body, engaging in teaching through its graduate programs in environmental law and providing advice and making submissions to government on environmental law matters. The editors of both books, Ben Boer, Robert Fowler and Neil Gunningham, are the Directors of ACEL at the relevant universities and are all closely involved in the development of environmental law and policy in Australia and overseas.

The title of the conferences — *Environmental Outlook* — is intended to reflect two broad themes: first, looking forward to future challenges of environmental protection; and second, looking beyond Australia to assess developments

in environmental protection at the international level and in certain regions. In his preface to the first *Environmental Outlook*, Phillip Toyne notes that the conference is designed to be a regular activity of ACEL, providing an opportunity for decision makers and policy makers in business and government to gain insights into environmental law, regulatory developments and recent local and international trends in those areas.

Both conferences have attracted an impressive array of speakers comprising environmental law and policy experts from a number of countries. Like the first book, *Environmental Outlook No. 2* includes contributions from Australia, the United States, Europe and the Asian and Pacific regions. Nicholas Robinson, Professor of Law at Pace University in New York and Director of the Center for Environmental Legal Studies, delivers a powerful critique of the recent backlash against environmental regulation in the United States led by the Speaker of the US House of Representatives, Newt Gingrich. David Freestone, Chair of International Law at the University of Hull, discusses new directions in environmental law and policy in the European Union and addresses the influence of the European Parliament and Maastricht Treaty over Member States in relation to matters of environmental protection and

sustainability. The relevance of *Environmental Outlook No. 2* to our own region is emphasised with a number of interesting and important contributions on developments in environmental law and legislative and regulatory schemes in Indonesia, Vietnam and China.

Both conferences began with an opening address by the Federal Minister for the Environment, the Hon. Ros Kelly MP in *Environmental Outlook*, and Senator John Faulkner in *Environmental Outlook No. 2*. Senator Faulkner's strong statements in relation to the then Labor Government's support for Australia's continuing participation in the development and implementation of international conventions, including the Framework Convention on Climate Change, and his warning against Australia retreating into 'environmental isolationism', are pertinent in the light of the present Coalition Government's recent failure to agree to the proposed time frames for the reduction of greenhouse gas emissions. The greenhouse gas debate, Australia's position and the approach of industry, are discussed in detail in papers by Nicholas Robinson, Ros Taplin (Director of Climatic Impact Centre at Macquarie University) and Tony Beck (Assistant Director of the Business Council of Australia).

Ms Penny Wensley, then Australian Ambassador for the Environment and Australia's Permanent Representative to the United Nations in Geneva, also spoke at both conferences on recent developments in international law and policy and the importance of Australia's involvement in these developments. In *Environmental Outlook No. 2* Ambassador Wensley provides a number of compelling arguments for Australia to engage actively in the development and implementation of international environmental legal instruments. She argues that Australia's geographic, historical, cultural, economic, political and strategic circumstances — and our unique ecological character — create an imperative, greater than that for many other countries, for Australia's active engagement in the development of international environmental law. Ambassador Wensley emphasises that increasing population pressure on scarce resources leading to tension and conflicts between states, economic and environmental interdependence among states presenting significant trading opportunities in environmental expertise and goods, the impact of international environmental agreements on Australia's present fossil fuel dependent economy, as well as ethical obligations based on important links between the recognition of human rights and the protection of the environment, all provide solid reasons from a foreign policy perspective for Australia's active involvement in global environmental treaty-making and implementation.

Ambassador Wensley's paper provides a detailed survey of recent developments in international environmental institutions (including the Commission of Sustainable Development arising out of the Rio Summit, the World Trade Organisation Committee on Trade and Environment inspired by the conclusion of the Uruguay round of GATT negotiations) and legal instruments including international conventions relating to climate change, biodiversity, desertification, transboundary movement of hazardous wastes, the marine environment and the management of fisheries. The Ambassador also identifies emerging issues of international concern relating to the conservation and management of boreal, temperate and tropical forests, and the

management of international trade in hazardous chemicals.

With the end of the Uruguay Round of trade talks and the formation of the World Trade Organisation, *Environmental Outlook No 2* includes a section which specifically addresses trade and the environment. The conference included workshops on biodiversity, green house and waste management, and the papers from those workshops are reproduced in the book. There is also a discussion of the question of national standardisation of environmental regulation in Australia through the National Environmental Protection Council and National Environmental Protection Measures.

Environmental Outlook No. 2 provides a valuable resource for environ-

mental lawyers, business managers and government policy makers, and will be a useful and informative text for students of environmental law. In the rapidly changing area of environmental law and policy, the books based on the Environmental Outlook conferences organised by ACEL will, it seems, contribute a regular update in recent developments and trends in environmental law and policy around the world. *Environmental Outlook No. 2* not only provides a thorough account of contemporary developments in this field, it also consistently looks forward to future challenges for environmental protection. It leaves me anticipating the next volume.

MARK BEAUFOY

Mark Beaufoy is a Melbourne lawyer.

'Sport & Law' column continued from p.43

11. See Davis, M., *Prisoners of the American Dream: Politics and Economy in the History of the American Working Class*, Verso, 1986.
12. Tygiel, J., *Baseball's Great Experiment: Jackie Robinson and His Legacy*, Random House, 1983.
13. For a description of Shibe Park, the neighborhood surrounding it and some legal issues in baseball seen by a Professor of Law, see Skilton, R.H., 'Memories of Shibe Park' (1992) *Wisc LR* 174; and Skilton, J.G., 'Memories of My Father: We're Talking Baseball', Tygiel, J., above, p.1743.
14. See my discussion of race, class and criminal justice in Philadelphia in Boehringer, G., 'The "Hurricane" returns', (1988) 13 *Leg Serv Bull* 120.
15. See Tygiel, above, pp.182-9.
16. See the comprehensive account of black baseball in Peterson, R., *Only the Ball Was White*, Oxford U Press, 1970. See also Shannon, M., *The Day Satchel Paige and the Pittsburgh Crawfords Came to Hertford, NC: Baseball Stories and Poems*, McFarland and Co, 1992.
17. As they did everywhere the Dodgers played — to record crowds — that year; see the description by Mike Royko the American writer, of his day as a child at Wrigley Field when Jackie first played in Chicago, Tygiel, above, pp.196-7.
18. According to Tygiel, 'To blacks he represented racial pride and prowess', p.75; a black sports writer wrote that Robinson 'has the hopes, aspirations and ambitions of thirteen million blacks heaped upon his broad, sturdy shoulders', Tygiel, above.
19. This was going to be a tough call: Robinson was a fierce competitor, even aggressive. No Uncle Tom, Robinson had been court-martialled in the Army (though acquitted) for defying Jim Crown back-of-the-bus laws in Texas, see Tygiel, above, pp.59-63.
20. See Tygiel, above, pp.190-91, where his base running is described: 'He stops and starts as though turned on and off with a toggle switch. Once in motion he wobbles along, elbows flying, hips swaying, shoulders rocking — creating the illusion that he will fly to pieces with every stride'. It was his blend of power and deceptive speed that 'brought a

- new dimension into baseball'; Tygiel comments 'He revolutionised major league baseball by injecting an element of "tricky baseball" so common in the Negro leagues'. And see Will's discussion of blacks and base stealing, Will, above, p.184.
21. Robinson on the bases was such a distraction that *Time* reported: 'He dances and prances off base keeping the enemy infield upset and off balance, and worrying the pitcher'. Even in the World Series, veteran New York Yankee pitchers lost games because Robinson had broken their concentration, Tygiel, above, p.191.
22. See some of the contours of racism in Philadelphia in: Boehringer, G., above.
23. See Tygiel, esp. chap 4 for a discussion of Rickey the man, the strategist and an administrative genius with great foresight and no little ambition.
24. Tygiel, above, p.119.
25. Tygiel, a social historian, weaves the legal, social, political and economic forces into his story with great affect. But he is well aware of the importance of human agency; he cites a contemporary sportswriter: 'Alone, Robinson represents a weapon far more potent than the combined forces of all our liberal legislation', p.75. While anti-discrimination legislation was emerging in the late 1940s after the experience of WWII, Rickey always denied that it pushed him into the integration strategy, Tygiel, above, p.54.
26. The functions and nature of playing in 'the minors' is well captured in the Costner film *Bull Durham*. For hockey see Paul Newman in the hilarious *Slap Shot*.
27. See Peterson, above; however, separate black baseball leagues could not long survive financially after baseball was integrated. Many black owners were bitter about the poaching of their players without adequate — or even any — compensation. Contracts, written or not, were no protection.
28. See, e.g. *Telos*, No. 106 (Winter 1996) Special Section on Affirmative Action. See generally Hughes, R., *Culture of Complaint: The Fraying of America*, Oxford University Press, 1993.
29. See Tygiel, above, pp.55 and 195.

30. Tygiel, pp.192-95.

31. Little did I realise that Rickey and others were at great pains to keep the Communist Party at arms length. He and others saw its support for integration as a barrier to progress, Tygiel, above, 37. Tygiel gives the CPUSA credit for its 'major role in elevating the issue of baseball's racial politics to the level of public consciousness', p.36. For a fascinating account of the intensity of feeling against Communists, progressives and blacks in the late 1940s, see Fast, H., *Peekskill: USA — a personal experience*, Civil Rights, Congress, New York, 1951. Fast describes a savage attack on the crowd at a freedom rally and concert by Paul Robeson, Peter Seeger *et al*. The police were, not surprisingly, complicit.

Gill Boehringer

Gill Boehringer teaches law at Macquarie University.

The new co-ordinator of the Sport & Law Column is Gill Boehringer. Contributions, responses etc welcome. Send to him c/- School of Law, Macquarie University, NSW 2109. Tel 02 9850 7075 Fax 02 9850 7686.