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*The Right Direction: A Casebook of General Jury Directions in Criminal Trials* by J Glissan and S Tilmouth, Butterworths, Sydney, 1991

*Cross Examination: Practise and Procedure; An Australia Perspective* by J Glissan, 2nd edition, Butterworths, Sydney, 1991

My ongoing research into juror comprehension consistently reveals two recurrent concerns regarding understandings of what goes on within the criminal trial. Interestingly these are also identified by Glissan and Tilmouth in their introduction to their book on jury directions.

For as long as there have been jury trials, the difficulty confronting both judges and counsel have invariably focussed upon two issues: (1) What evidence is to be kept from the jury; and (2) at the close of all the evidence what directions of law are appropriate.

From jurors' points of view, they suspect the intentions and purposes of lawyers and judges who attempt to restrict their access to evidence, and they recognise the positive and negative potentials of the judge's directions.

Any competent attempt to collect and categorise general jury directions in criminal trials is both overdue and welcomed. However it should be remembered that the primary purpose of the direction is to assist the jury in their task as finders of fact, rather than to provide fodder for future appeals, or to prevent judicial embarrassment.

The authors of this collection identify the need for a "compendium of case law which provided the authoritative pronouncements of appellate courts". They state that their attempt is to draw together the guiding principles from the highest available source. Therefore it is not surprising that the cases referred to usually emerge from the superior State Courts, the High Court and the Privy Council. As lawyers know, these are usually not the locations for initial confusion in directions, but rather provide the forum for correcting such confusion. Therefore, while this book intends to help avoid problems with jury directions, it does not necessarily focus on such problems in their original form.

Besides the case extracts and commentary, the book provides assistance in a number of other summarised forms. The general classification of topic headings is in itself a useful overview of the areas within the trial process where confusion may develop. The technique of sub-categorising the case lists under such topic headings is particularly helpful. The authors have adopted the useful structural device of dividing the materials into broad sections (namely, General Directions Which Arise in Every Trial, Complicity — Directions as to Derivative Responsibility, Matters Which May Arise in any Trial, Directions as to Accused, Summing up the Evidence, the Jury, and Duties of Counsel). Within these sections reside a detailed collection of sub-topics which range across a great variety of trial issues. Not surprisingly there is no inherent consistency in the theme of these sub-topics, and it might be artificial if there were. There is a discussion of functions, proof, presumptions, participation, evidence, defences, decision making, and so on.

Another practical benefit offered out, is the check list against which lawyers might measure the adequacy and completeness of any particular summing-up. Such a device

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obviously risks criticism for its generality but is a necessary precondition towards a consideration of model directions.

The collection represents a useful experiment in combining short selected abstracts within a specific topic structure, and assisted by some very brief commentary. A pleasing feature of the collection is the scope of jurisdictions through which the authorities sweep. The authors have tactfully avoided the thorny issue of uniform directions. Unfortunately, however, the collection lacks many critical insights into the purpose of jury directions, and the future development of such practice.

Glissan's examination of cross examination is a more personal and speculative account of the topic. However the title is itself slightly misleading. While presenting two chapters on cross examination the book is more an overview of advocacy practice within the trial setting.

By tackling the topic of cross examination in any form the author displays commendable courage. For a practitioner to write about one of the sacred mysteries of the bar is unique. While cross examination is a common topic of conversation between Counsel, in a similar way that war stories fascinate old generals, the literature on advocacy rarely presents the practitioner's view on cross examination techniques. A notable exception to this criticism is the article by J W Smyth QC, "The Art of Cross Examination" which appeared in the *NSW Bar News* in Autumn 1988.

Having announced his adventurous intentions the author proceeds to qualify his motives and success.

In the text I have employed such skills as I possess and such experiences I have in the areas about which this book is concerned. I have as well taken the opportunity to collect what material was available on advocacy and within the limits of my capacity to systematise it. I hope that through this book much of what is valuable in such texts as those to which I have already referred will be preserved and made readily available to junior practitioners who find themselves in court.

This sets the practical context of the work.

The style of the book is to some extent as contrived as many of the more obscure traditions of the Bar itself. It commences with an examination of etiquette, and concludes with a swag of "notable cross examinations". The ethics of advocacy receives some brief coverage, but within the usual uncritical and idealist setting.

The merit of the book is not so much in its coverage of the law, but rather the practical hints which are constantly presented to the practitioner in the various stages of evidence presentation. This no doubt limits the usefulness of the book, but its simplicity of language would make it accessible to the informed layman who seeks some insight into the mechanics of the trial.

The second edition is certainly an improvement on the first, and not just in terms of the expansion of its content. The inclusion of the chapter on appellate advocacy is to be welcomed by teachers and students of law, who after all focus the majority of their case-law attention on appellate decisions.

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