

**Book Review: On Equity**



By the Hon. [Peter W. Young](#) AO, Clyde Croft<sup>1</sup> & Megan Louise Smith

Published by [The Lawbook Company](#) 2009

Reviewed by Patrick Hay

My immediate response to this text is one of gratitude. Here is a book which bridges a gap between introductory-level texts and some of the more heavy-going, theoretical treatises in the subject area.

At first glance, it is tempting to regard the book as fitting into the latter category. At 1,296 pages, and bound in midnight black, *On Equity* presents as a large and sombre text. But first impressions are seldom accurate.

The text commences predictably enough, with *Part One* presenting a history and overview of fundamental concepts and maxims that will be readily familiar to practitioners in the area. The last chapter of this part, however, entitled *Practical Applications of Equity*, relates equitable principles to a number of particular contexts, including associations, partnerships and corporations, preservation of property and equity and statute law. This heralds a highly topical focus that is carried through the remainder of the book.

The second part of the text is, in typically understated fashion, entitled *Equitable Doctrines*. Practitioners should not be put off by this title. This is not simply an amorphous collection of equitable principles devoid of real world context. On the contrary, it is here that the book blossoms into a very topical and useful series of chapters tracing the interplay of equity in a number of discrete areas of law.

This is evident from the focus of the chapters themselves, which include *Property in Equity*, *Mortgages*, *Equitable Assignments*, *Contracts* and *Probate and Administration of Estates*. These chapters exist in addition to core discussions of fiduciary duties, estoppel and a host of other equitable doctrines, remedies and defences.

In my use of the book so far, I have found this emphasis on equitable principles as they apply to everyday subject areas to be of great utility. But the true value of this text lies in its immediately accessible style and expression. The authors have obviously gone to great effort to produce a text of elegant simplicity, but without sacrificing academic or intellectual rigour.

The text is also valuable as a carefully-considered update of equity as it applies current to 2009.

A final point of interest is that, without derogating from the practical emphasis of this text, the authors, at times, become reflective upon the role and development of equity in law and society.

As you might expect, the authors of a book entitled *On Equity* are firmly supportive of equity's continued role in Australian courts. They take particular aim at the "fundamentalist members of the restitutionist school [who] have proceeded on the basis that equity does not exist, or at least should cease to be recognised, as a discrete body of principles". The authors dismiss such an approach as "idle pretence" brought about by the "corrupting influences of continental based civil and Roman law". I suspect the authors enjoy such contributions to this robust debate.

For me, such contributions round off a text that is eminently useful and current. Above all, the book brings welcome clarity and an applied approach to equity as it relates to everyday civil legal practice. The publisher's [price of \\$149.00](#) is also excellent value.

**P. D. Hay**

Footnote

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1. Justice Croft was appointed to the Supreme Court of Victoria in October 2009.