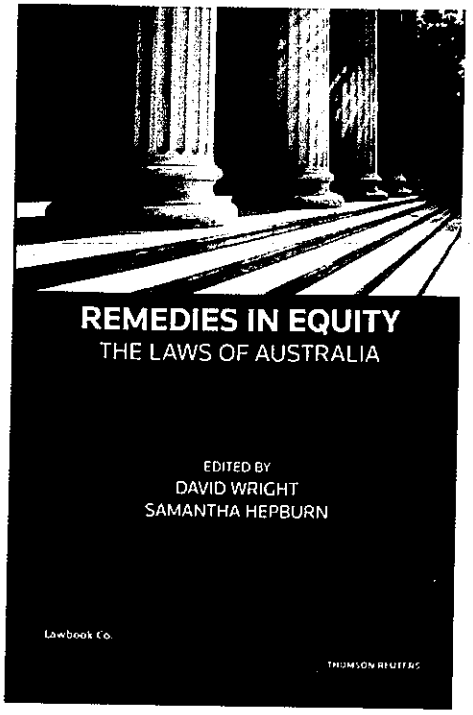

Redressing injustice

Title:	Remedies in Equity: the Laws of Australia
Authors:	David Wright and Samantha Hepburn
Publisher:	Thomson Reuters, July 2010
ISBN:	9780455228136
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"Remedies are what clients want," say authors David Wright and Samantha Hepburn, who instead of focusing on rights and obligations, urge us to start with the end game.

Of course a study of equitable remedies does not come without a study of the history and origin of equity itself. Indeed, this was the approach of another recent text by P.W. Young, C. Croft and M.L. Smith, *On Equity*, (Thomson Reuters, 2009). The gist of it is that the law of equity is strange beast developed in the days of the Court of Chancery to ameliorate the harshness of the common law and to provide an avenue of redress where the "conscience" of the Chancellor deemed it necessary.

The fact that discretion is unavoidably employed in equitable remedies is no cause for fear of arbitrariness or judicial activism. The exercise of the discretion is informed by various factors and equitable principles. Further, the dynamic nature of the beast is integral to its flexibility in application.

For example, in terms of determining when it is appropriate to award equitable damages, the discretionary considerations are, "designed to locate the balance of justice in all the circumstances of the case". These considerations would include whether the injury suffered by person seeking equitable damages can be defined in monetary terms (p268).

Another example is that a person cannot seek a declaration as to his or her rights unless that declaration actually has an effect, actual or potential, on the rights of the parties: it cannot be hypothetical (p15).

The dynamic nature of equity and its remedies is examined in the sequence of declarations, specific performance, rescission, injunctions, compensation and damages, tracing, taking accounts, delivery up, cancellation and rectification.

Unlike the authors of *On Equity*, Wright and Hepburn do not attempt to critique the Australian law of equitable remedies; they merely explain what they perceive the law is, without making value judgments as to what they believe it should be. In that way this is a more traditional and self-contained text, which makes the task of understanding the basic elements of equitable remedies a little simpler.

Each chapter reads like a book within a book. Each topic of a chapter is demarcated by carefully worded bolded statements which contain all the essential ingredients for the remedy discussed. Wright and Hepburn then provide a digestible summary of each element with reference to case examples.

The reader-friendly format makes the 426 pages relatively easy to follow and provides sufficient information for each topic. This is probably essential, considering it comprises Title 15 in the Laws of Australia encyclopaedia.

On the other hand, a summary of the elements of each remedy at the beginning of each chapter might be a way of improving the format and helping the reader to absorb the information better. All in all, the book will no doubt become a valuable resource for any study into equitable remedies.

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