

## A fresh look at first steps

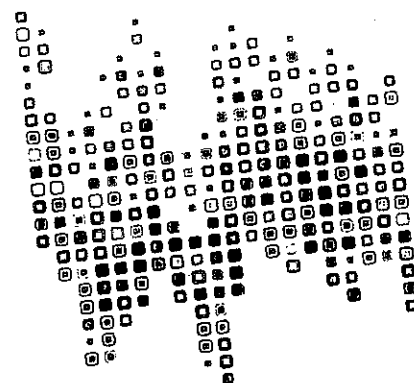
*Legal Reasoning* by John Farrar, Lawbook Co, Sydney, 2010, 340pp, \$84. ISBN 9780455227177.

By ROBERT RICHARDS, *Solicitor*

*LEGAL REASONING* IS NOT JUST ABOUT legal reasoning – it includes an attempt to paint a background to the Australian legal system. It does, however, provide readers with a succinct and readable outline of the bases of legal reasoning – the use of logic, precedents, statutory interpretation and so on.

Essentially, this is a textbook for first-year students – so why bother reviewing it? Because it's good to know what people entering the legal profession have been taught about the basics of law, and whether they have been taught to think like lawyers. One should know the conceptions or misconceptions they are likely to bring with them from law school. Apart from that, there's no reason why practitioners shouldn't from time to time read basic textbooks – it is far too easy to forget the basics of law and concentrate on just

**LEGAL REASONING**  
JOHN FARRAR



getting the job done.

As a tax lawyer I found one observation made by Farrar was of particular interest. He looks at viable alternatives for dealing with deviant behaviour. He suggests that behaviour which is regarded as anti-social in some ways might be taxed heavily, and cites as an example the practice of

dividend stripping.

Farrar claims that transactions in shares were carried out by financial manipulators to enable tax refunds to be obtained from the tax authorities where no tax had in fact been paid. He also states that Parliament introduced sweeping and complex tax litigation to penalise this particular form of deviance.

Unfortunately, this is an inaccurate description of both dividend stripping and the effect of the countervailing law. A small point perhaps. But seeing errors of fact in a book in an area of my expertise makes me lose confidence that there

aren't other mistakes which I can't identify.

One chapter of particular interest was "Comparative legal cultures". Farrar states that common law lawyers often make the mistake of believing that the common law tradition is the oldest and most important legal tradition in the world, and second, that it is in every respect the best system in the world.

Unfortunately, barristers and the judiciary in particular seem to believe this; the consequence being that they in particular resist any changes to our archaic and cumbersome adversarial court system.

In the final analysis this is just a first-year textbook, yet I'd recommend it to practitioners as general reading – if only to remind you of the basics of our complicated legal system. □

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