

custody of children and the role of the High Court as upper guardian of minor children.

Chapter 3 gives a cursory glance at certain aspects of the procedure relating to custody disputes in divorce proceedings. The role of the family advocate is discussed with reference to the Mediation in Certain Divorce Matters Act 24 of 1987. The regulations promulgated by the Minister providing for the practical implementation of the Act are also incorporated in the discussion.

Included in the book is a reference to relevant statutes (in Part VI). Although the authors mention general principles as enunciated by the judiciary, one would have expected a more comprehensive discussion of the relevant case law available to date of publication – especially as the publication is promoted as a tool to be used during litigation. An inclusion of factual summaries of the leading cases would also have proved useful.

In order to put the contents of the publication in its proper perspective the term *professionals*, as contemplated in the foreword, should be qualified to refer specifically to social workers and psychologists.

Although the publication deals with an important and fast developing facet of the law, I cannot recommend the book as an invaluable asset for legal practitioners such as attorneys and advocates.

Germa Wright
Free State Bar

• • •

The Law of Contract in South Africa

Third edition by R H Christie

Butterworths (1996)

xiv + 761 pp. Soft cover R217,49 (VAT incl)

The third edition of this standard text was clearly necessitated by statutory amendments and the accrual of more than 260 new relevant decided cases. By conscientious weeding out of obsolete matter, however, the author has succeeded in reducing the overall length of the volume by 30 odd pages. The following changes to the old text are worthy of note.

The final paragraphs of Chapter 1, entitled *Historical Introduction*, have been expanded so as to include a discussion of the Law Commission's proposals, in Working Papers 54 of May 1994 and 65 of September 1996, in relation to unfair contract terms, and the effect on contractual obligations of the fundamental rights contained in the Interim Constitution Act 200 of 1993, with reference, *inter alia* to *Du Plessis v De Klerk* 1996 5 BCLR 658 (CC).

Pursuant, apparently, to *Durity Alpha (Pty) Ltd v Vagg* 1991 2 SA 840 (A) and *Hutchinson v Hilton Holdings* 1993 2 SA 405 (T), an introductory paragraph has been inserted into Chapter 2, dealing with the elements of an agreement, to the effect that, despite the generally accepted requirement that a valid contract requires more than one party, it is possible for a man to enter into a contract with himself – provided that he does so in two different capacities.

The latter half of Chapter 5, which deals with the terms of a contract, has, with reference to *Coopers & Lybrand v Bryant* 1995 3 SA 761 (A), been slightly enlarged and altered by the insertion of a new paragraph entitled "The technique of interpretation" and the rearrangement and systematisation of the subsequent paragraphs of this chapter.

In Chapter 6, the author's discussion of the contractual capacity of married women has been modified in accord with the provisions of s 29 of the General Law Fourth Amendment Act 132 of 1993. Similarly, pursuant to the watershed decision of the Appellate Division in *Bayer South Africa (Pty) Ltd v Frost* 1991 4 SA 559 (A) it was possible for the author to abridge the lengthy discussion in the second edition of damages for negligent misrepresentation in Chapter 7.

The author's discussion in Chapter 10 of the enforceability of gambling debts must now be read subject to the provisions of s 18 of the National Gambling Act 33 of 1996. It must be conceded, however, that this Act only came into operation on 18 April 1997, thus after the publication of the book.

John Middleton
Pretoria Bar

Labour Law Diary – 1999

Juta & SASLAW
R125,00 (VAT incl)

This 14-month diary is published by Juta in association with the South African Society for Labour Law (SASLAW) and has a number of features designed to assist the labour practitioner. These include a Labour Court Timetable, telephone numbers and postal addresses (e-mail where available) of the Labour Courts, CCMA offices around the country, unions, employers' organisations and SASLAW members.

One feature which, in my view, is perhaps the most important, is a list of web site addresses with links to various Internet sites which give access to national and international labour legislation, reported and unreported cases and a wealth of other relevant information.

The inclusion of information such as paper sizes, tyre pressures, etc is perhaps super-abundant in the sense that the average labour lawyer is hardly likely to make use of it. Despite this criticism, the diary is a well-planned product which should satisfy the demands of the labour practitioner.

Johan Nel
Pretoria Bar

• • •

Juta's New Land Law

by G Budlender, J Latsky and T Roux

Juta (1998)

Loose-leaf. R395,00 (VAT incl)

This is a timely publication, dealing as it does with the more recent legislation on land rights and land development.

What the book does is set out the text of all recent legislation on these topics – in all, five Acts of Parliament and whatever Regulations have been made under them. To cater for amendments, the book is in loose-leaf form.

The laws in question are topical and designed to fulfil pressing social needs. Consequently, there is a need for commentary >

on each piece of legislation. It is in this respect that the book serves its most useful purpose: the commentaries are by experts in the areas concerned.

Not surprisingly, the first chapter deals with the property clauses in the Interim and Final Constitutions. It is a well-written commentary and will prove a welcome addition to the learning on the property clauses.

The legislation dealing with land development is the Development Facilitation Act 67 of 1995 ("the DFA"). Here too, the commentary, this time by Johan Latsky, is most useful in placing the DFA in its proper context. The DFA is not an easy piece of legislation. Latsky's approach is pragmatic: avoid deep analysis and concentrate on providing useful guides to practitioners – and perhaps even developers themselves – on how the Act should be used to fulfil its main objective, namely facilitating the development of land. One note of caution: the DFA regulations have been completely re-written and are awaiting ratification. The revision services will obviously bring readers up to date.

The third chapter is written by Theunis Roux. It deals with the Restitution of Land Rights Act 22 of 1994. Here, too, the author concentrates on practical application – rather than in-depth analysis. But this is what practitioners will applaud. It should be noted, however, that there is no commentary on Chapter III of the Act: the intention is that this will be included in the revision services.

Also contained in the book are texts of the following Acts: the Law Reform (Labour Tenants) Act 3 of 1996 (together with the Arbitration Rules made thereunder); the Communal Property Association Act 28 of 1996; and the Interim Protection of Informal Land Rights Act 31 of 1996. Commentary on these Acts too will follow in the revision services.

This is a publication which is likely to prove essential reading for anyone concerned with land rights and land development. And it will probably become the handbook of practitioners in these areas of the law.

Vasantrai Soni
Durban Bar

GCB news

continued from p 8.

The Road Accident Fund

Comments by Dan Nesor SC of the Pretoria Bar

During 1998 the Minister of Transport seemed determined to pilot through Parliament a new Act which, one must assume, would have been along the lines of the Bill (third draft) which was published at the beginning of 1998 and which would make dramatic changes to the compensation which road accident victims would receive. The GCB proposed that the entire question of whether changes were to be made to the existing legislation and, if so, the nature of such changes rather be considered by a judicial commission and that the proposed legislation be shelved until after the commission had furnished its report. Then, lo and behold, without any real effort from our ranks, the Minister, for some or other reason, decided to abandon the new legislation and to have a commission appointed. The English text of the Act providing for the appointment of the commission was signed by the President and assented to on 28 September 1998. The introduction reads: "To provide for the establishment of a commission of enquiry to enquire into and to make recommendations regarding a system for the payment of compensation or benefit or a combination of compensation and benefits in the event of an injury or death of persons in road accidents and to provide for incidental matters".

The functions of the commission are set out in section 5 of the Act and do not appear to limit the commission in their enquiry in any way whatsoever. Although the chairman of the commission has not been appointed yet, Mrs A Roux has been appointed as secretary. We take this opportunity to welcome the commissioners when they are appointed and Mrs A Roux to this forum. We have good reason to look forward to a happy, healthy and constructive debate with the commission. One must not forget the past history when we were instrumental in caucusing for the appointment of a new board which resulted some time

ago when Mr Peter Botbijn, as chairman, and various other more acceptable people were appointed to the Board. They were more readily available to discuss problems and solutions than their predecessors. Mr Botbijn is an ex-attorney who specialised in third party work and has made himself accessible to any who would like to discuss problems and/or solutions. As a matter of fact, we looked forward to the new year when attorneys, the Road Accident Fund and ourselves would be making what we believe to be similar recommendations to the commission whilst differing on the less important aspects only.

We have all along enjoyed the co-operation and what is more, common purpose with our colleagues representing the Law Society of South Africa and it is thus with sadness that we take note of the present issue which exists between the Law Society of South Africa and the RAF. This issue is highlighted by a heading in the January 1999 issue of *De Rebus* which reads as follows: "The Law Society speaking for all its constituent members has asked the RAF to end its investigation and misinformation campaign against the attorneys' profession".

This relates to a perception on the part of attorneys that the RAF is co-ordinating an unacceptable campaign against the profession. Mr Botbijn sums his viewpoint up as follows: "At a meeting I extended a hand of friendship and co-operation of my Board to your Society, asking you that together we should devise ways and means of addressing the corruption practised by a minority of attorneys in respect of compensation awarded to road accident victims and that my Board had expressed the hope that we could go public on this". (The underlining is mine)

I believe that we can assist the Law Society and the RAF in coming to some sort of acceptable agreement in connection with the manner in which complaints should be dealt with. Once that has been achieved, we have every reason to believe that by way of sensible and constructive debate, we will be able to make meaningful recommendations to the commission. We hope that this rather small contentious matter can be settled for the good of all those involved in wanting to see the Fund managed and organised for the benefit of people who suffer in road accidents. ☞