

**GLISSAN, J.L., CROSS EXAMINATION PRACTICE
AND PROCEDURE:
An Australian Perspective, Legal Books Pty. Ltd.,
Sydney 1985, 281 pp + xi**

This is an imposing but unimportant contribution to the literature of advocacy. First of its faults is its misleading title. It is neither about "Cross Examination" nor does it give an "Australian Perspective". It is in fact a puffed-up summary of how the more conservative barrister in New South Wales goes about the process of preparing for and conducting litigation.

A hint of the tone can be gathered from the author's remarks about attending judge's chambers for morning tea (at p9):

"This dying tradition permits some relaxation of the formal relationship between Bench and Bar. There are a number of observations to be made about it should you find yourself invited for tea by the judge. First is the simplest: the most junior barrister pours the tea and is usually asked to by the judge, but if not remember if that is your role, you should take it up as if you know at least that about the "etiquette of morning tea"... I have said that tea was a dying tradition of the Bar. Its passing is to be mourned but it is not a reflection on the lack of generosity of judges. It is rather a reflection on the lack of understanding of the "rules of morning tea" by the junior Bar."

Of course it is easy to make selective and unfair criticisms at the expense of any author and it must be admitted that Glissan does not do a bad job of bringing together in a lucid framework the conventional strictures about the art of advocacy that are to be found in the 'established' texts. (Munkman, Harris and Wellman).

Given that these texts are out of print (and have been so for over two decades), I commend Glissan's desire to preserve, in his book, much of what was valuable in these old writings (pvii). Yet the consequence is that Glissan's text has an old fashioned mustiness to it. A number of examples appear dated. The language and manner recommended to counsel are stiff and over formal. Thus, for example, the reader is urged that the correct way to ask a judge to look at a particular page of transcript is "might I invite your Honour's attention to pl24 of the transcript" (pl5).

The best parts of the book are its least didactic chapters which concentrate on actual trial conduct. In these chapters (ch33-7), the examples are generally better selected and on the whole provide good illustrations both of sound techniques and pitfalls. These chapters will assist beginners at the Bar.

There are two final criticisms that I wish to make of the book. First, over 100 pages (more than one third of the text) are direct borrowings from the other sources. So far as these borrowings are merely extracts of notable cross examinations I am not perturbed but, in my opinion, it was not adequate for Glissan to simply reprint Sir John Barry's 1941 address to the Albury Law Society, as Chapter 8 of his book under the heading "The Ethics of Advocacy". Second, the lack of a bibliography is an unfortunate omission for a work which draws so heavily from other sources.

DUNCAN COLQUHOUN-KERR