

Eckard's Principles of Civil Procedure in the Magistrates' Courts

Third edition

by *TJM Paterson*

Juta & Co Ltd. (1996)

Soft Cover

R140-00 (VAT incl)

The third edition of this trusted work has undergone a change of authorship. It has been revised and brought up to date by Torquil Paterson, who is presently a member of the Grahamstown Bar.

Readers acquainted with the earlier editions will find that little change has been made to the general structure of the book. It now, however, incorporates a discussion of legislation and decisions up to 1 January 1996 and a new chapter, containing some comments on procedural law in general, has been inserted before the discussion of civil procedure as it pertains specifically to the magistrates' courts. For the rest the structure of the book has remained unchanged.

Relevant legislation which has come into being since the advent of the last edition in 1990 includes the Short Process Court and Mediation in Certain Civil Cases Act 103 of 1991 and the Magistrates' Courts Amendment Act 120 of 1993. With respect to the first of these two Acts, chapter 3 of the new edition now contains sections on the concept of mediation and a brief description of the workings of the Short Process Court. Although most of the provisions of the above-mentioned Magistrates' Courts Amendment Act had not yet come into operation at the time of publication of the new edition, the author nevertheless includes a discussion of the provisions thereof wherever relevant, in the hope, as he puts it in his preface, of extending the shelf life of the book.

Regarding recent judgments discussed in this edition readers will no doubt find the author's treatment of the following cases of interest:

- *Coetzee v Government of the Republic of South Africa; Matiso v Commanding Officer, PE Prison & Others* 1995 (4) SA 631 (CC), regarding the abolition of civil imprisonment for debt;
- *Fedmech EFS (Edems) Bpk v Saaiman* 1990 (4) SA 637 (O) and *Randall v Baisley* 1992 (3) SA 448 (E) regarding the question of costs;

- *Mthanhi v Pepler* 1993 (4) SA 368 (D), regarding the interpretation of rule 13(3); and
- *Bisonboard Ltd v K Braun Woodworking Machinery (Pty) Ltd* 1991 SA 482 (A), regarding the citation of juristic persons in magistrates' court proceedings.

A useful innovation in the third edition is the inclusion in chapter 6, dealing with the application procedure in the magistrates' courts, of a comprehensive list, with reference to the relevant sections, of matters which may be brought by way of application as opposed to the action procedure.

A discussion of the procedure for provisional sentence, introduced into the magistrates' courts procedure in terms of GN R498 of 1994 is included in chapter 11 of the new edition.

Despite the change in authorship, the third edition has adhered strongly to the format and quality of the earlier editions. Though by no means a comprehensive reference work, it remains a useful guide to the basics of civil procedure in the magistrates' courts.

John Middleton
Pretoria Bar

Extinctive Prescription

by *MM Loubser*

Juta & Co (1996)

xxix & 239 pages

Hard Cover, R195 (VAT incl)

and

Prescription in South African Law

by *John Saner*

Butterworths (1996)

Looseleaf, R160 (VAT excl)

Although prescription or *praescriptio longi temporis* has been a legal phenomenon recognised at least since the days of the emperor Theodosius and has enjoyed sometimes heated discussions in the South African legal journals, there has never before been a book on the topic in South Africa. Now two such books have appeared within months of each other; one from each of the two leading legal publishers in the country.

The book by Max Loubser of the Law Faculty of the University of Stellenbosch may be described as a scholarly discourse on the subject. He not only deals in detail with the provisions of the Prescription Act 68 of 1969, insofar as they relate to extinctive prescription, but also pays attention to the history, theory and policy underlying the principles of extinctive prescription and embellishes the work throughout with copious comparative references to the approach adopted in other legal systems. This comparative approach is perhaps the most useful aspect of the book in that it provides examples of how problems not yet encountered, or not yet fully resolved by the South African courts have been dealt with elsewhere.

John Saner, a member of the Cape Bar, on the other hand, makes no bones about the fact that his work "is not, and never was intended to be an exhaustive, intellectual, academic treatise on the subject." He deals with the background and history in a short introductory chapter of no more than five pages and then gets down to his discussion of the South African legislation and cases, dealing first with acquisitive and then extinctive prescription. His approach is strictly practical and, in accordance with this approach, he finds it necessary, especially in relation to acquisitive prescription, to deal not only with the provisions of the 1969 Prescription Act but also with the provisions of its forerunner, the Prescription Act 18 of 1943, which, given the nature of this phenomenon, are likely to remain relevant for some time to come. For the same reason, he also devotes considerable attention to claims in terms of the Compulsory Motor Vehicles Insurance Act of 1972.

Apart from the provisions of the Prescription Acts, both authors, of course, also pay attention to the numerous other statutory provisions which prohibit or limit the institution of actions after the effluxion of certain periods of time – provisions containing the so-called "vervaltermyn", such as the Limitation of Legal Proceedings (Provincial and Local Authorities) Act 94 of 1970. Many readers will no doubt be astonished at the number of such provisions which exist. In fact, scrutiny of the respective indexes reveals that Saner picked up one or two that Loubser missed and vice versa.

Loubser's work is supplied with an appendix reflecting the text of those >

provisions of the 1969 Prescription Act relating to extinctive prescription. Saner's work has the full text of both Prescription Acts as well as a very useful "Easy Reference Table" reflecting prescriptive and expiration periods. Loubser's work contains references to cases reported up to May 1996 and Saner's to cases up to March 1996.

It is submitted that it is not a question of choosing between these two books. They are complementary to each other.

John Middleton
Pretoria Bar

Books in brief/ Kort begrip van boeke

Nihil Obstat: Feesbundel vir WJ Hosten/Essays in Honour of WJ Hosten

deur CW van Wyk (redakteur) en H van Oosten (assistent-redakteur)

Butterworths (1996)
vii & 291 bladsye
Hardeband R117,42 (BTW ing)

Professor Willy Hosten wat 21 jaar dekaan van die Regsfakulteit van die Universiteit van Suid-Afrika was, het geen bekendstelling nodig nie. Hierdie feesbundel is deur die Eenheid vir Regshistoriese Navorsing van Departement Jurisprudence in 1996 – die jaar waarin die Universiteit van Suid-Afrika 'n ere-doktorsgraad in die regte aan hom toegeken het – tot sy eer uitgegee.

Die feesbundel bevat bydraes wat hoofsaaklik handel oor aspekte van die regsgeeskiedenis, regsvergelyking, Romeinse reg, regsfilosofie en verskeie ander temas.

Lewis and Kyro's Handy Hints on Legal Practice

South African Edition by IM Hoffman

Butterworths (1997)
xii & 325
Soft cover R152,76 (VAT incl)

This is an adaptation of the Australian book, the second edition of which was published in 1993. Although one may get the impression in the foreword to the South African edition

that the book is aimed at the attorney's profession only, it is clear from the contents that the book is intended to have general application. It is relevant to both branches of the profession – advocates as well as attorneys. The book comprises 55 chapters, divided into 10 parts which embrace the main areas of professional activity, i.e. relationships with clients, with other practitioners, with the profession and the community, with the courts, mistakes and misapprehensions, communication and drafting, practice management, working in the law, leaving the law, common legal diseases, and miscellaneous.

The chapter dealing with "Confidentiality and legal professional privilege" contains a brief but useful summary of the law relating to legal professional privilege – adapted by Ms Hoffman to South African law (but, of course, not including a reference to the more recent decision in *Van der Heever v Die Meester en Andere* 1997 (3) SA 93(T) and *Lane NO and Another v Magistrate Wynberg and Others* (1997) 2 AllSA 557 (K).

Of special interest to advocates are the instructive chapters dealing with "Witnesses", "Conducting a case", "Instructing in court", and "From the bench", in the part in which the relationship with the courts is discussed.

The approach of the authors is down-to-earth and practical. Their language is also straightforward, "Shut-up. If it is not your turn to address the bench, shut-up", "Minimise sweet talk", "Screaming, shouting, ranting and histrionics went out with button-up boots".

In the preface to the first edition the authors state that "... [T]his is a simple book. Its main purpose is to bridge, in a modest sort of way, the gap between what law students learn at university and what they need to know to practise law". The authors have succeeded in their task. The book is essential reading matter for pupils (and their masters).

Administration of Estates: English Edition

by NJ Wiechers and I Vorster

Butterworths (1996)
Loose leaf (Service issue 1) R262,20
(VAT incl)

This work is aimed at students and practitioners involved in the administration of estates. It is the English edition of the well-known *Boedelbereddering* now in its third edition (1992).

Basic Sectional Title Book Two *by Ted Woudberg*

Butterworths (1996)
vii & 132 pages
Soft cover R92-34 (VAT incl)

This new publication complements *Basic Sectional Title* which was first published in April 1994. It updates the reader by highlighting new developments in the industry and dealing with the potential changes to current legislation. In the preface it is stated that the publication is primarily meant as a basic guide for consumers.

South African Labour Glossary *by Frans Barker and Maggie Holtzhausen*

Juta & Co Ltd (1996)
xii & 195 pages
Soft cover R109 (VAT incl)

This publication has been prepared in response to a constantly growing demand for precise definitions of labour-related terms, in particular relating to the South African labour market. It covers most disciplines in the labour field, e.g. labour relations, labour economics, personnel management and human resource development, etc.

Staatsreg

Tweede uitgawe
deur IM Rautenbach en EFJ Malherbe

Butterworths (1997)
xii & 380 bladsye
Constitutional law
by IM Rautenbach and EFJ Malherbe
Butterworths (1997)
xii & 374 pages
Sagteband/Soft cover R165-30 (BTW ing)

In hierdie tweede uitgawe van *Staatsreg* word die vertaling van die nuwe Grondwet bespreek binne die raamwerk van die algemene beginsels van die staatsreg en met verwysing na die literatuur en regspraak oor die oorgangsgrondwet. Soos die eerste uitgawe is die aanbieding en verduideliking van stof gerig op studente wat die vak staatsreg redelik vroeg in die regsgraad volg. Vrae word aan die einde van afdelings ingesluit vir selfevaluering. 