

## From the publishers...

### The Law & Practice of Interdicts

by CB Prest SC

Juta & Co (1996)

lv + 405 pp.

Soft cover R295,00 (VAT incl)

**T**he *Law & Practice of Interdicts* is the successor to *Interlocutory Interdicts* (Juta 1993) by the same author. The new book consists of two parts. Part A, entitled "The Requirements of the Law of Interdicts", is an up-dated and slightly expanded version of the first book and deals with the nature, history and development of interdictal applications in South Africa, including a useful comparison of the English and South African law in this connection. In the course of the up-dating of this section recent decisions such as *Shoba v Officer Commanding, Temporary Police Camp, Wagendrift Dam & another 1995 (4) SA SA 1 (A)* and particularly the judgment of Stegman J in *Knox D'Arcy Ltd & others v Jamieson & others 1995 (2) SA 579 (W)* receive comprehensive treatment.

Part B, under the heading "Practice", is entirely new and divided into eight chapters dealing respectively with procedure; the court's discretion; urgency; jurisdiction; *locus standi*; the discharge, referral and variation of interdictory orders; appeals and costs. In the course of the discussion of jurisdiction constitutional matters, with reference *inter alia* to *Matiso v Commanding Officer, Port Elizabeth Prison & another 1994 (3) SA 899 (E)*; *1994 (4) SA 592 (SE)* and *1995 (4) SA 631 (A)* and *Ferreira v Levin NO & others; Vryenhoek & others v Powell NO & others 1995 (2) SA 813 (W)*, receive attention. South African case law is considered up to the end of December 1995. It is notable that the Table of Cases encompasses 32 closely printed pages, which is in itself an indication of the amount of research involved.

By the addition of Part B in particular the author has transformed what was in essence a doctoral thesis on the nature of the interdictal remedy into a very useful handbook for practitioners.

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### A Commentary on the South African Constitution

by GE Devenish

Butterworths (1998)

xix + 390 pp.

Soft cover. R153,90 (VAT incl)

**T**he fundamental changes in constitutional law occasioned by the coming into force of the 1993 and 1996 Constitutions have resulted in numerous publications in the constitutional sphere in the last five years. The majority have, however, focused on the constitutional Bill of Rights – which has also garnered much of the attention in law journals, NGO reports and the press. The publication of another book on the 1996 Constitution as a whole is therefore to be welcomed.

Professor Devenish's book is somewhat similar in format to Dion Basson's *South Africa's Interim Constitution: Text and Notes* (1995) in that it by-and-large tracks the provisions of the Constitution, providing some insight and commentary into each section. It is, however, considerably more informative than Basson's book on the Interim Constitution. The commentary, while still terse, is no mere repetition of the text. Further, there is mention of a wide range of South African cases, both pre-1994 and post-1994, as well as many foreign judgments. Particularly, helpful, too, are the citations to South African law journals and other legal publications; while the references to works of political scientists and historians is consistent with the author's view of constitutional law as a subject which straddles, *inter alia*, jurisprudence, politics and history.

The difficulty with a commentary on a text as diverse and diffuse as the South African Constitution is that the commentator is required to give informed opinions on topics as wide-ranging as fundamental human rights, the nature of governance and the three branches of government, traditional leaders, the security services and the finance provisions. Inevitably, therefore, Devenish's commentary on some sections is more superficial than on others. In addition, by following the structure of the Constitution, rather than adopting a more thematic approach, Devenish was condemning himself

to some rather trite observations. For, it is after all very difficult to find something informative to add to some of the more self-explanatory sections of the Constitution, let alone to make insightful comments on such provisions.

The final product, then, is a little patchy and the reader dipping into Devenish's *Commentary* in search of assistance on a particular constitutional section could well be left unenlightened. This is particularly true of the provisions dealing with the constitutional Bill of Rights, for which one of the more specialised texts would be recommended. (The discussions of the right to equality and the rights of arrested, detained and accused persons, in particular, barely scratch the surface.)

But, having said that, one can equally be surprised by the slightly different approach adopted by Devenish in a field where uniformity is unfortunately all too standard. Especially enlightening are his comments on interpretation (which, as would be expected, has been the subject of special attention). Someone seeking information on the role of the preamble or the founding provisions, or on the place of international law in interpretation, for example, will be rewarded by consulting this book. Similarly, those who have reservations about the desirability of the current interpretive orthodoxy – the "purposive approach" will find a kindred spirit in Devenish (who should, however, have made some reference to the Constitutional Court's frequent invocations of this approach).

Devenish's *Commentary* is thus, on balance, a useful book and one which does not compare unfavourably with the other slimmish volume on the whole Constitution, Rautenbach & Malherbe's *Constitutional Law* (rev. 2ed 1996). The nature of it is neatly encapsulated by Marinus Wiechers in the Foreword, where he recounts some advice given to him by the late JC de Wet: "Forget about writing a legal book in which you want to combine theory and practice. Simply write a students' textbook." This is just such a book: primarily directed at students, but also helpful for practitioners desirous of a brief comment or a guide to key reference sources. However, the constitutional specialist, as well as many other lawyers no doubt, must remain in hope that someone will see fit to disregard De Wet's advice to Wiechers and produce a synthesis of theory and practice in the constitutional realm.

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