

Book review

Reviewed by Hon. Robert Fisher QC

Given my commonroom nickname "Shopping List Fisher" (based, I believe, on my attempts to reduce the law to a series of succinct propositions) I was always going to be biased in favour of Ian Bassett's handbook on contract law. Here, at last, is a shopping list textbook.

The concise style is captured by an extract taken at random:

"1.4 Intention to create legal relations

1. An objectively ascertained intention by the parties to create legal relations is a prerequisite to a legally binding contract.
2. There is usually a reasonable inference of such an intention where arm's length contracting parties make promises in exchange for good consideration.

Fleming v Beevers [1994] 1 NZLR 385 at 389 (CA)"

Several things will be noted from this extract. The propositions are shortly and clearly stated. There is a deceptively high level of analysis underlying the stated propositions. Where a proposition is authenticated by a decision of high authority, there has been no waste of time and space citing additional authorities. The history of the common law on the point before these propositions evolved has been omitted. Instead of laying out a number of decisions and quotations and leaving the reader to extract the result, Mr Bassett has already done that work and come up with the proposition they jointly support.

That is not to pretend that a clear answer is always forthcoming. Where the law is unclear, Mr Bassett does not hesitate to warn the reader. For example in the section on mistake he states:

5. It is unclear whether sections 5 and 6 of the Contractual Mistakes Act 1977 exclude the equitable jurisdiction of rectification for a mistake by one party as to the content of a written agreement.

Tri-Star Customs and Forwarding Ltd v Denning [1999] 1 NZLR 33 at 40 (CA)."

New Zealand has had more than its share of legal textbooks which plough through interminable decisions without adequate synthesis. This book is synthesis at its best. Mr Bassett says in the preface that the book outlines the broad principles of contract law for

● Cont. on p.11

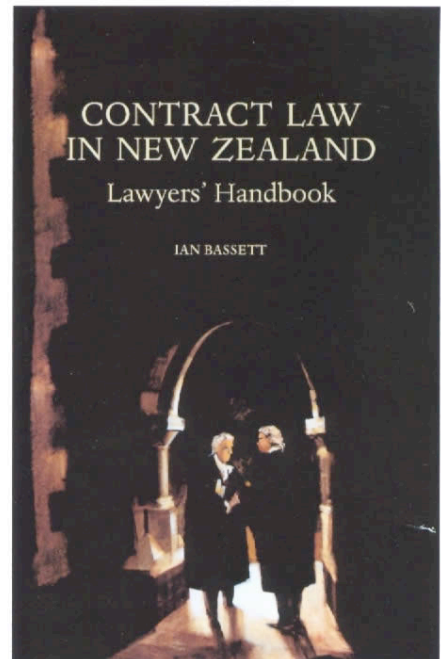
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busy legal practitioners and students. In this I think he is too modest. I suspect that judges and academics, too, will find it at least a useful starting point in any problem about contract.

In most cases the book will be the end point as well. It is surprising how much time tends to be taken up in opinions, submissions, textbooks and judgments ploughing through authorities on a matter which, in the end, could have been boiled down to a single irrefutable proposition if the time had been taken to work out what it was. The challenge in most contract cases is to apply undeniable legal principles to the facts, not to debate the legal principles themselves. Obviously that is not to deny the requirement, appropriately acknowledged by Mr Bassett, and signalled in the body of the text, to research further where the law on an issue is still open to serious argument.

I recommend this book to all. I personally use it frequently. My hope now is that Mr Bassett can be persuaded to produce the equivalent for the law of torts.



Contract Law in New Zealand: Lawyers' Handbook, by Ian Bassett, Southern Cross Publishing, 2007. ISBN 9780473122652. Paperback 224p. \$77 including GST. Available from www.contract-law.co.nz, VicBooks in Wellington, all Bennetts bookshops, UBS University Bookshops in Auckland and Dunedin and Legally Bound Bookshop (ADLS) Auckland. ■