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Commentary on Chapters by Daryl Williams QC and Grant Donaldson SC

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Introduction

It is important for practitioners to regularly expose themselves to learned (and often historically sourced) analyses of important, dynamic areas of legal practice. One struggles in vain to keep up with the tide of superior court decisions in difficult cases exhibiting our evolution of common law, equity and (still somewhat nascent) doctrines of statutory interpretation.

As even the most casual observer of High Court transcripts on AustLII will appreciate, the High Court (particularly Kirby J) has been telling us for a number of years that Australian lawyers (particularly barristers) "love the common law" (and *quaere* perhaps equity), but "hate statutes".[1] It is certainly fair to say, I think, that practitioners of all persuasions – barristers and solicitors, litigators and non-litigators, privately employed and publicly employed – do not pay the attention to fundamental conferrals of jurisdiction by statute that they ought to. Too many lawyers, I venture to suggest, apply for declaratory relief in an

1 See, for example, *Attorney-General (NT) v Ward P62/2000* (6 March 2001); *Wilson v Anderson S101/2000* (11 September 2001); *Knight v The Queen S109/2001* (5 March 2002); *Alexander T/A Minter Ellison v Perpetual Trustees WA Ltd S509/2002* (18 June 2003); *Siemens Ltd v Schenker International (Australia) Pty Ltd* [2003] HCA Trans 336; *Butcher v Lachlan Elder Realty Pty Ltd* [2004] HCA Trans 87.