Canadian Constitutional Law Handbook, by Louis B.Z. Davis, Aurora: Canada Law Book Inc., 1985. Pp. *cxxvi*, 1056. $195.00 (hardcover)

The writing of legal opinions is perhaps the ultimate tool of the legal profession. Whether as a law student writing an exam, a lawyer advising a client or seeking to persuade a court, or a judge delivering reasons for decision, the legal opinion is the means to convey the result of researched principles applied to the given factual context. The acronym IRAC is familiar to most who have undertaken legal studies. It represents the standard approach to legal writing and presents a logical format of Issue, Rule, Application and Conclusion.[1]

The function of legal research is to fulfill the second element in the IRAC formula — to identify the appropriate legal rules. In constitutional issues, there are various approaches[2] utilized to identify the appropriate or controlling principle. The Privy Council in *Citizens Insurance Co.* v. *Parsons*[3] used the original understanding or historical inquiry approach to determine the extent of provincial property and civil rights jurisdiction. The court examined the *Quebec Act*[4] to demonstrate the broad expanse intended for this local jurisdiction. More recently, this approach was employed by the courts as a limiting device in the interpretation of the 1960 federal *Bill of Rights*[5]. A second approach is the textual. Reliance is placed primarily on the express words of the constitution. Since each judge can read the words of the constitution for himself, it follows that no previous interpretation should be binding in the absence of a controlling principle such as *stare decisis*. The third approach is a combination of structural and ethical values. It is a policy oriented approach in which fundamental principles reflected in the constitution are identified. The court seeks to particularize the application of these principles as the context requires. An illustration of this approach may be found in the "convention" majority's appeal to the "federal principle" in *Reference Re Amendment of the Constitution* of Canada.[6] The approach was used to find a need for substantial provincial concurrence for the proposed constitutional amendments. It was again illustrated in *Manitoba Language Rights Reference*,[7] where the court invoked the "Rule of Law" to temporarily sustain unconstitutional provincial statutes and avoid a state of anarchy. It is the fourth approach, however, which is the mainstay of legal opinion writing. Probably 99 *per cent* of all legal opinions are doctrinal in nature. They seek to set forth principles established by judicial precedent of hopefully binding authority. This *stare decisis* approach has reportedly been chastized "as a form of

[1]N. Brand and J. White, *Legal Writing: The Strategy of Persuasion* (New York: St. Martin's Press, Inc., 1976) 67.

[2]See P. Bobbitt, *Constitutional Fate* (New York: Oxford University Press, 1982).

[3](1881), 7 App. Cas. 96.

[4]14 Geo. 3, c. 83.

[5]S.C. 1960, c. 44.

[6][1981] 1 S.C.R. 753, (1981), 39 N.R. 1.

[7](1985), 59 N.R. 321 (S.C.C.).

ancestor worship" by Wilson J. in the course of her recent David B. Goodman Lectures at the University of Toronto.[8]

Whichever approach one takes to constitutional law legal opinion writing, the task of researching to identify the salient legal rules has been greatly facilitated by the production of *Canadian Constitutional Law Handbook*. This is particularly so for those of the doctrinal school. The author has compiled in this volume statements of principle contained in constitutional cases decided by the Supreme Court from and including 1949 — the cut-off year for appeals to the Judicial Committee of the Privy Council — to April 23, 1985 — the manuscript date.

This reference work is divided into eight parts: I. Aboriginal and Treaty Rights to Constitution of Canada; II. Constitution Act, 1867 to Constitution Act, 1982; III. Constitutional Amendment to Constitutional Facts; IV. Constitutional Interpretation Doctrines or Principles and Related Matters; V. Courts; VI. Crown — Executive — Government to Quebec Act, 1774; VII. Rights and Freedoms; and VIII. Royal Proclamation of 1763 to Ultra Vires Legislation. The logic of the ordering of the material is at times difficult to appreciate. For instance, while Part II follows a predictable pattern, essentially being the sequence of the distribution of powers found in ss. 91 and 92 of the *Constitution Act, 1867*, Part I is an eclectic assortment of subject matters. In addition to the native rights identified in the heading, Part I also includes such diverse matters as Administrative Law, Aeronautics, Attorney-General, British Columbia Terms of Union, Citizenship and Company Law/Incorporation, among others. The oddity of the ordering is also apparent in other parts. Perusal of the table of contents should, however, identify the particular area of interest to the researcher so that the ordering of the material should not detract from its usefulness. As an added benefit of the computer age, the matters are presented in alphabetical order.

As a compilation of the statements of principle culled from 36 or so years of Supreme Court judgments, *Canadian Constitutional Law Handbook* will quickly recoup to its reader the purchase outlay in hours saved in researching the Delphic statements uttered by the Court. It is an investment well worth considering. In these turbulent early years of the *Charter*, it should be noted that the author foresees the need of future updates or supplements to his work to cover developments.

As an aside, counsel at the Bar should be aware of this volume for another reason. It may well reflect the awesome facilities of the federal justice department. To the best of my knowledge, currently available computer services, with one exception, do not provide access to Supreme Court reasons for decision beyond the headnote. The exception is a Q.L. service available from early 1985 of current reasons for decisions. If, as one may reasonably suspect, this volume is a product, at least in part, of computer technology, the disadvantages counsel face in litigating against the department are heavy indeed. If, on

[8](1985), 12 *National* 3. Her remarks addressed the problem of interpretative approaches to be followed by the Supreme Court of Canada in determining constitutional, particularly *Charter*, issues.

the other hand, the author laboriously searched for principles by reading each judgment, our gratitude to him should similarly be weighed.

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