

*Trade Practices Law* (Vols. 1 and 2), by Bruce G. Donald and J. D. Heydon, Sydney, The Law Book Company Limited, 1978, i-lix + 508 pp.; l-liii + 509-857 pp. \$34.50 and \$26.50 respectively.

In the preface to Volume 1 of this work the authors state that their treatise "seeks to meet the urgent need for a detailed and fundamental account of the problems raised by [trade practices] legislation". They point out that previous texts on this subject have either been made somewhat redundant by recent amendments to the Trade Practices Act ("the Act") or merely provide a general survey. Their aim would appear from these statements to be to provide a more up to date and fuller treatment of the Act and there is no doubt that in the 875 pages which comprise the work they do just that.

No doubt on account of the length of the work, it is published in two volumes. The first deals with introductory matters and Part IV of the Act. The second deals with Part V of the Act, the shipping provisions of Part X and the Act's enforcement and remedy provisions.

Resisting the temptation to paraphrase sections and to merely state the relevant Australian authorities, the authors of this work examine the relevant sections in depth. They not only take the reader through the relatively few Australian authorities on the subject but also make reference to legislation and authorities in other jurisdictions. By so doing they are able to more deeply analyse the Act than the Courts had at the date the work was written and indeed give some considerable assistance to the reader in the way Courts may analyse parts of the Act when they come to do so.

The work as might be expected having regard to the reputation and background of the authors is both well researched and shows depth of thought. Further, throughout the work the authors show that they are not scared to advance opinions in unchartered areas and also to dispute the comments of some of the many commentators to which they refer.

Whilst it is somewhat impudent to criticise a work such as this, it does have some shortcomings. In parts the language used in the work is somewhat turgid and this linked with the compression of ideas and arguments in relatively short paragraphs often requires the reader to reread and consider for some time relevant paragraphs in order to fully understand them. Indeed, it is for this reason that it is suggested that this work is not ideal for a reader who has not already some

knowledge of the Act. In itself this would not be a severe criticism as the book is clearly so useful to others with some knowledge of the field were it not for the fact that from the author's preface it is clear that the book is intended for use by more than that relatively narrow class of persons.

A further shortcoming of the book is common to a great deal of printed matter. The authors have sought with great success to thoroughly and fully examine aspects of the Act referring to as many relevant cases, articles and opinions as possible. However, the field of trade practices is a developing one and with Court decisions in the uncharted fields being issued regularly and with the ready possibility (acknowledged by the authors) of amendments the work must almost inevitably become quickly dated. To take some examples, the manufacturers' warranties provisions of the Act became law after Volume 2 of the work was printed. Whilst the authors have analysed the bill relating to such warranties which was in existence at the time of writing, that bill was altered in some material respects before becoming law and accordingly already some of the authors' comments if read without close examination could be slightly misleading. A further example can be seen in relation to the authors' comments on section 50 which are made prior to the *Trade Practices Commission v. Ansett Transport Industries (Operations) Pty. Limited* decision which at the date of this review is the only decision on section 50 in its present form and would no doubt now be the starting point in any consideration of that section.

As the authors note in their preface they have made a conscious effort not to include the text of the Act in their work. Whilst such an exclusion assists in the scholarly nature of the work by preventing recourse to merely regurgitating parts of the Act, it is suggested that the inclusion in the appropriate places of the legislative text would have been useful. The first benefit of such inclusion would have been to assist the reader to read the relevant subsections to which the authors' comments are to relate rather than risk clouding the reader's thinking as he focuses on the entirety of the section. Secondly, it would stop the possibility of the reader being misled into thinking that the authors' comments apply to the Act in its amended form when perhaps amendments have occurred since the work was written. Finally, the work is designed to be complete and as such covers so many of the cases, articles and books related to this area; as the Act forms such a major part of the area the omission of the text of the Act detracts from the completeness of the work.

Despite the above shortcomings, this work is one of which the authors can be very proud and there is no doubt (if this has not already become the case) that it will be used regularly by practitioners

and will have an effect on the decisions of Courts in those uncharted areas of the Act referred to above.

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