

despair and compassion. The text bears all the caution of Hetherton's work but exposes and explains the assumptions too often implicit in that of Tomasic/Bullard. Although some of the data presented is as familiar as much of that in both other books, the interview technique provides a deeper understanding of more of the causes of those familiar patterns. There is less need to supplement the data—as it is richer—and less chance of omitting an integral factor in any analysis. Perhaps the overriding truth that, whatever else it may be, the practice of law is, in essence, a process of human interaction emerges more clearly from interviews than questionnaires.

COLIN J. H. THOMSON\*

*Anti-Discrimination Legislation in Australia* by CHRIS RONALDS, LL.B. (Butterworths, 1979), pp i-xiii, 1-174. Paper, recommended retail price \$6.00. (ISBN: 0 409 41330 5).

This useful little book gets off to a somewhat inauspicious start with an extraordinarily badly-written and largely meaningless Foreword by the National President of the Institute of Personnel Management Australia. Fortunately this abysmal standard is not maintained in the rest of the work, but it really is hard to see why the Publishers considered it necessary to inflict this kind of platitudinous nonsense on the reader in the first place. It may be that Forewords by public figures (distinguished or otherwise) can sometimes lend a spurious legitimacy to publications that are otherwise unable to stand on their own merits but the work under review is most definitely not in need of any such assistance, and it is a pity that the Publisher did not see fit to recognise that fact.

According to the author's Preface, the purpose of her book is to

help people become aware of the types of sexist and racist actions which are unlawful in Australia through the existence of anti-discrimination legislation, and the remedies available to them when they become victims of such actions (page xi).

It is also made clear from the outset that the book is intended for the lay person "rather than for academics or members of the legal profession" (page xi).

By and large, the author attains all of her objectives—and more besides. She succeeds in presenting a highly complex, and frequently obscure, body of legal rules and administrative principles in a comprehensive and readily comprehensible form. Her text is refreshingly free of lawyers' jargon and technical obscurantism. Where she is forced to use technical language, she invariably takes pains to explain what the terms used actually mean. Inevitably perhaps, this quite laudable desire to avoid the use of technical language causes the author to invent some obscurities of her own. In paragraph 827 for example, when describing

---

\* B.A., LL.M. (Syd.); Senior Lecturer, Faculty of Law, Australian National University.

exemptions under anti-discrimination legislation for discrimination contained in or authorised by existing legislation, she observes that

under the general principles of statutory interpretation, a piece of legislation is deemed to bind an earlier piece of legislation unless there is a specific negation.

That particular piece of prose does not convey a great deal to either lawyer or layman!

One of the most serious problems which must have confronted the author is the wide range of anti-discrimination Acts which have been adopted by the various Australian legislatures in recent years. In relation to racial discrimination for example, she had to contend with the Racial Discrimination Act 1975 (Cth), the Racial Discrimination Act 1976 (S.A.), the Anti-Discrimination Act 1977 (N.S.W.) (A.D.A.) and the Tasmanian Anti-Discrimination Bill. In the field of sex discrimination on the other hand, she had to deal with the Sex Discrimination Act 1975 (S.A.) (S.D.A.), the Anti-Discrimination Act 1977 (N.S.W.), the Equal Opportunity Act 1977 (Vic.) (E.O.A.), and again, the Tasmanian Anti-Discrimination Bill. Her solution to this problem is to set out the law in each jurisdiction in a separate paragraph under each topic heading. So for example, when she deals with the definition of discrimination in Chapter 2, she makes a number of general remarks about the problems of definition in this area, and then sets out the relevant rules under each of the 5 Acts and the Bill, in turn. This makes for a certain amount of duplication, since various of the Acts adopt a similar approach to the issue of definition. On the other hand it does avoid the highly confusing cross-references which so often characterise Australian legal writings where there is parallel and/or overlapping Federal and State provision in any particular area.

A less justifiable use of space is the very large number of practical examples of the operation of the various Acts which are included in the text. Of course it is an excellent idea to try to give some indication of the kinds of real-life situations with which the legislation is meant to deal. But surely one or two such illustrations should suffice in most instances? It does not really serve any useful purpose to furnish as many as nine examples in relation to the same statutory provision (paragraph 510, see also paragraphs 308-311, 509 and 605-609). The playlets lose their impact after a time, and there can be little doubt but that the space could have been put to better use. It would, for instance, have been most helpful to have given some indication of the kinds of situation which are *not* covered by the legislation, as well as those which are covered.

Given the complexity of the legal rules described in this book, it is inevitable that a number of factual inaccuracies should creep in. To her credit the author contrives to keep these to an absolute minimum. This reviewer found only one really serious error in the whole book. This occurs in paragraph 806 where the author is discussing the position relating to discriminatory terms and conditions of employment which are embodied in State industrial awards. Describing the position under the Victorian Equal Opportunity Act she expresses the view that

a person in Victoria can make a complaint of discrimination on the ground of sex or marital status on the terms and conditions of

an industrial award, including the payment of wages and salaries, and be within the terms of the Act.

This is not the case. Discrimination which is embodied in Wages Board determinations in Victoria is protected by section 33(1)(d)(iii) of the E.O.A. in much the same way as in State awards in New South Wales (A.D.A., section 54(b) and (e)) and South Australia (S.D.A., sections 31 and 35(c)). Where the position in Victoria does differ from other States is in relation to over-award payments. These *are* covered by the Equal Opportunity Act, but are excluded from the scope of both the South Australian and New South Wales Acts. With this single exception, all of the other errors in the text are very minor, and are not such as to detract from the overall merits of the book.

The most disappointing feature of *Anti-Discrimination Legislation in Australia* is the relative lack of discussion of the wider social, political and economic issues which arise in relation to discrimination on grounds of race or sex. To be fair, the author expressly disclaims any intention of looking at these issues (Preface, page xi), apparently because "there are many and better qualified people than I to undertake that task". Unfortunately this does not take adequate account of the view that it is impossible fully to understand the nature and effect of the substantive rules of law in this area without a proper appreciation of the context within which they operate. This disavowal of detailed consideration of contextual issues is all the more frustrating in view of the fact that when the author does deal with this kind of issue, she does it so very well. Particularly outstanding were the brief sections on discrimination in education (paragraphs 401-403) and credit and insurance (paragraphs 501-503).

Taken as a whole, this book represents a highly creditable attempt to deal with a complex subject in a very brief compass. The author's literary style is far from elegant, but on the other hand the text is largely free from lawyers' jargon, and should be comprehensible to the lay reader without undue difficulty. Throughout her text the author adopts a refreshingly matter-of-fact approach. She is clearly not given to flights of academic fancy. There is an abundance of practical advice on how to use the legislation, especially in chapter 9 which deals with Complaints and Enforcement Procedures and chapter 10 which deals with the obtaining and presentation of evidence. Finally, a comprehensive index and comparative table greatly assist the reader in finding his or her way around the various Acts.

The author is to be congratulated on providing such a clear and succinct guide to a complex, and increasingly important, area of law. Her book should be of great assistance to human rights activists throughout Australia. Despite the disclaimer in the Preface, it should also be of interest and relevance to students, academics and legal practitioners. Modestly priced at \$6.00 it is an excellent buy.

W. B. CREIGHTON\*

---

\* LL.B. (Belfast), Ph.D. (Cambridge); Senior Lecturer, Faculty of Law, University of Melbourne.