

Book Reviews

Domestic Violence in Australia: The Legal Response by NICHOLAS SEDDON (Sydney, The Federation Press, 1993, Second Edition) pp 162.

In the mid-eighties, when I was a newly qualified solicitor, a client walked in off the street one day and asked me how she could go about getting a divorce from her husband. It was in the course of getting the usual particulars that she burst out: 'He belts me, you know'.

All those years at Law School certainly hadn't prepared me for assisting a survivor of domestic violence. I managed to make a few phone calls and helped get her to a refuge, but I was left with a sense of total inadequacy.

I went to one of my colleagues and told him of my concerns for my client. He simply said, 'Did you see the bruises?' When I replied that she didn't have any on her face, he replied, 'So what are you worried about?'.

Coping with this sort of reaction as well as having access to the law relating to domestic violence is what Nicholas Seddon's book is all about. I only wish it had been available when I was in practice.

In the second edition of this book (the first edition was published in 1989), Seddon updates and summarises the relevant law relating to domestic violence in each State and Territory. The author writes that the book is designed primarily as a reference book for 'helpers', a term which he uses to refer to refuge workers, social workers and crisis care workers as well as lawyers.

Perhaps because he has such a wide audience in mind, Seddon deals briefly and succinctly with the available criminal and civil responses to domestic violence in the different jurisdictions. While this book is obviously of great practical significance to 'helpers', the one major drawback to aiming such a work at a wide target audience is that the law is often dealt with in a cursory fashion. For example, in the section on the criminal law, the use of the battered woman syndrome as a basis for the defences of self-defence, provocation and duress is dealt with in one paragraph. The format of the book simply does not allow for any discussion of the syndrome or the possible repercussions of its use.

Similarly, the complex and difficult case of *R v Falconer* (1990) 96 ALR 545; (1990) 171 CLR 30 in which the High Court explored the elements of non-insane automatism is dismissed in a sentence as an example of the lengths to which defence counsel may go to exonerate an accused woman on the ground that she was 'temporarily mentally incapacitated'.

There are obvious constraints upon the depth of analysis that may be made in a book which sets out to cover all the relevant civil and criminal law relating to a particular topic. However, the passages dealing with self-defence and provocation in the section on domestic violence as a defence to a criminal charge could do with some further detail. It is not clear in these passages what the current tests for self-defence and provocation actually are. A brief analysis of *R v Zecevic* (1987) 71 ALR 641 and *R v Stingel* (1991) 97 ALR 1 would aid

in clarifying the problems of 'fitting' evidence of battered woman syndrome into the current legal doctrines of self-defence and provocation.

Those reservations aside, *Domestic Violence in Australia* is a worthwhile guide to the current legal responses to a problem which shows no signs of abating. In the first chapter, Seddon explores the types of relationships that may fall within the term 'domestic', the incidence, causes and pattern of violence within the home, and the preconceptions about domestic violence of which helpers need to be aware.

Seddon makes it clear from the outset that the book is written from the viewpoint of helping the survivor of the violence rather than the perpetrator. He therefore stresses that helpers should listen uncritically to their client's story and should be supportive. This is clearly set out in order to counter the 'Did you see the bruises?' attitude mentioned above.

The first chapter also deals with money matters and gives a brief overview of social security law. Lists of legal centres specialising in social security law as well as domestic violence services are set out for easy reference.

Chapters Two through Five deal with the relevant law and procedure relating to domestic violence. Seddon deals first with the criminal law, then outlines Family Court remedies and other non-specific remedies such as peace complaints, injunctions, damages and criminal injuries compensation, before dealing with the availability of protection orders.

While the legal response to domestic violence is thus comprehensively covered, Seddon also critically assesses the merits of the different remedies available. For example, he states that recognisances to keep the peace or be of good behaviour are ineffective remedies because enforcement for breach requires a further court hearing; actual breaches may be hard to prove because of the vagueness of the expressions 'keep the peace' and 'be of good behaviour'; and harassment falling short of actual violence may not be covered.

The work is very well set out with clear headings signposting the relevant jurisdictions. It also contains a concise and helpful index as well as a Table of Cases and a Table of Statutes. In all, *Domestic Violence in Australia* provides an easily accessible reference guide for legal practitioners and other 'helpers'.

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The Law of Securities by EDWARD I SYKES and SALLY WALKER
(Sydney, Law Book Co, 1990) pp vii, 1070.

The first edition of this work was published over thirty years ago. Since then, it has become a classic. In subsequent editions, Professor Sykes complained that while his text was being cited on 'straight' mortgage questions, it was apparently being ignored in relation to chattel securities and crop liens. There was no need for that plaint by the fourth edition. Subtitled 'An account of the

law pertaining to securities over real and personal property under the laws of the Australian States', the work can be found on every finance and security lawyer's bookshelf. The original material gained Professor Sykes his doctorate of laws in 1954; the erudition and comprehensiveness of text both originally and in subsequent editions has meant that it is also one of the first points of reference for academics and students.

The reason for reviewing the fifth edition is that this time, the work has been published under the joint authorship of Professor Sykes and Sally Walker, Hearn Professor of Law at the University of Melbourne. The authors explain in the Preface that Professor Sykes has continued to deal with securities over land and Professor Walker has taken over the chapters relating to securities over personal property. Material which covers both fields, such as the credit legislation, corporate securities, priorities and conflicts of law remain with Professor Sykes. This allocation works reasonably well except in the case of Chapter 21 entitled 'Securities associated with credit control'. This in itself is a curious title and much of the material in that chapter has, in this edition, been dealt with in Professor Walker's chapters. A more satisfactory approach would have been to subsume the balance into the text and delete that chapter.

In Part III, comprising chapters 12 to 17, Professor Walker deals with securities over personal property other than leaseholds. She begins in chapter 12 by tracing the development and framework of legislation in order to give the reader an overview of a very complex picture. Different types of security arrangements adopted prior to the enactment of the credit legislation are explained and critically evaluated. There is some detail about the reform proposals of various specialist Committees, and also the approach under Article 9 of the US Uniform Commercial Code is described. Professor Walker sets out the implementation of the reports in Australia on a jurisdiction by jurisdiction basis and examines to what extent the legislation has equated those different forms of security arrangement. A major part of the chapter deals with the chattel securities legislation and the position of a third party purchaser, again on a jurisdiction by jurisdiction basis. The manuscript was completed before the publication of the two Australian discussion papers on the reform of the law of chattel securities. However, reference is made to these both in the Preface and in a preliminary way in the text.

Remaining chapters of Part III cover in detail the mortgage, charge, hire purchase and conditional sale, mortgages of special types of chattels such as livestock and crops and ships, possessory securities and hypothecations, securities over choses in action and priorities in relation to securities over personalty. While there have been amendments to take account of recent developments, the text of these later chapters is substantially the same as in previous editions. Professor Walker's writing style is lucid and, in the modern style, she uses shorter paragraphs and sentences and more short subparagraphs than her co-author. Although the contrast between her style and that of Professor Sykes is noticeable, it is not jarring, at least for this reader. While not gainsaying the precision, vigour and individual flavour of Professor Sykes's prose, a more modern writing style makes the material more readily

comprehensible, particularly if the work is being dipped into by way of reference.

If criticism is to be made, it is to observe that the passage of text from one edition to the next accompanied by minor updating has caused inconsistencies and imbalances of emphasis. For example, back in the second edition, there was a reference in the section headed 'Dealer Financing' to the dealer selling goods on hire purchase on behalf of the financier, quite correct at that time. This has survived into the current edition although it is qualified with the adverb 'generally'. This is misleading since it has been made clear elsewhere that in most cases, credit given to a purchaser by a dealer or credit provider will be by way of regulated loan contract or regulated credit sale contract under the credit legislation. There are other examples outside Part III: only the briefest mention in a footnote is made of *Legione v Hateley* and no mention at all of *Stern v McArthur* in the section dealing with the conditional sale of land. The extended discussion of *Anning v Anning* and *Brunker v Perpetual Trustee* has also been retained from previous editions with only a passing reference to the decision in *Corin v Patton*.

Also, although there has been some rearrangement in Part III, this edition preserves the basic form, structure and categories of previous editions. In some cases, this has led to a fragmentation of treatment of topics. For instance, the distinction between a strict priorities question and disputes between competing security holders is drawn in chapter 2. The position of a third party purchaser under the chattel securities legislation is dealt with in chapter 12 but priorities issues under that legislation are dealt with in chapter 17. Priorities in relation to land are considered in chapter 11 and there is a separate treatment of securities given by corporations and registration requirements. No sense is given of the interrelationship of policy issues underpinning these topics nor, outside chapter 12, of reform proposals which pertain to them all. Retention of the structure of headings and sub-headings in a work that has grown from 645 to 1030 pages sometimes means that a reader gets lost, particularly if he or she is referred to a topic by way of the index. The frequent referencing back to propositions made in the course of discussion of the legal mortgage, which derives from the origin of the work as a doctoral thesis, also becomes more problematic as the length of the treatise increases.

A classic retains its appeal if it is relevant to a modern audience. This work is still useful and stimulating, despite the signs of its ancestry referred to above, and it is likely to remain so.

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The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry, no matter how small, should be recorded to ensure the integrity of the financial data. This includes not only sales and purchases but also expenses and income. The document provides a detailed list of items that should be tracked, such as inventory levels, supplier payments, and customer orders. It also outlines the procedures for reconciling accounts and resolving any discrepancies that may arise.

The second part of the document focuses on the role of the accounting department in providing accurate and timely financial reports. It highlights the need for clear communication and collaboration between the accounting team and other departments, such as sales and operations. The document describes the various types of reports that are generated, including balance sheets, income statements, and cash flow statements. It also discusses the importance of analyzing these reports to identify trends and make informed business decisions.

The final part of the document addresses the challenges of managing financial data in a complex and rapidly changing environment. It offers practical tips and strategies for overcoming these challenges, such as implementing robust internal controls and using technology to streamline financial processes. The document concludes by emphasizing the importance of staying up-to-date on the latest financial regulations and industry best practices to ensure compliance and success.