

## BOOK REVIEWS

C. Peter Tashjian, **BUSINESS ORGANISATIONS IN PNG**  
(Sydney: The Law Book Co. Ltd. pp.282)

This is one of the first text books on business organisations in PNG. It traverses the whole gamut of incorporated and unincorporated business entities, and considering that nothing of its kind existed before its publication, the author deserves a big pat on the back.

But the author's enthusiasm, however, to write a text which in his own words does not 'overwhelm' the reader with verbose, confusing, archaic or otherwise inappropriate jargon and nomenclature' he glosses over an essential feature of this segment of PNG law, i.e. the fact that much of the law of PNG derives from the received English law and that the constitution recognises this fact by enjoining the judicial branch of the State to develop the underlying law - see S.C.R. 20(2); Schedule 2 part 5. There is no question that there is a need to write an authoritative text 'not about business practices in other parts of the world' but about business practices in PNG, but unless the genesis of those practices are appreciated, current practices will not make sense. The net effect of the author's's over-reliance on what he perceives as unsullied PNG business practices is the downgrading of English business practices which percolated into our jurisdiction through Australia. As everyone familiar with the operation of the common law well knows, the law can be gleaned only from the decided cases; even where a codified version of the law exists as in our case the Companies Act (Cap. 146) ambiguities in the provisions of the statute can be resolved only by reference to the decided cases. And this leads this writer to the book's most glaring defect. In a text of this nature the employment of only six cases is to put it mildly, most inadequate. Most practitioners may not find the work helpful in this regard.

Secondly, and this flows from the conspicuous absence of decided cases, the work reads more like an annotated version of the Companies Code than a text.

Finally, it is the impression of this writer that the author did not fully appreciate the effort of the law makers to provide appropriate business forms for the use of indigenous entrepreneurs. Apart from the Business Groups and Land Groups, Part XII, Division 4 (sec. 368-372) confers on the Registrar power to exempt from compliance with some of the more rigorous requirements of the Act 'local persons'. This is to give so-called common people, the less sophisticated and less educated of the society equal opportunity with business minded citizens to participate in the nation's economic activities. That this aspect of the law was given only scant consideration by the author can be attributed only to his imperfect understanding of the complex social organisation of PNG.

In addition, if law is not to be considered as a brooding phenomenon somewhere in the netherworld, but a social fact, there would seem to be a need to explain why cooperative societies are 'rare' in Papua New Guinea. There is copious material on the historical background of the evolution of cooperatives in Papua New Guinea which give some clue to the near-absence of the cooperative phenomenon in the country. To dismiss this very important matter in one paragraph leaves the intelligent reader in a state of exasperation.

On the positive side, the book, true to the aim of the author is readable and contains some very useful practical examples of the requirements of the law. It also contains a glossary and a 'do it yourself kit', a veritable case of legal self-prescription which the intelligent

business man would no doubt avoid. It is doubtful, however, whether the numerous appendices are altogether necessary. They have a great deal to do with the volume of the work.

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M.A. Kimuli; H.A. Amankwah and J.T. Mugambwa,  
**AN INTRODUCTION TO THE LAW OF BUSINESS ASSOCIATIONS  
IN PAPUA NEW GUINEA**  
(Hobart: Pacific Law Press, 1989)

As the title indicates, this work deals with business associations in Papua New Guinea. It is interesting that it came out of press around the same time as Tashjian's *Law of Business Organisations in Papua New Guinea*, Sydney: The Law Books (1989). These two books appear to be the only works which deal exclusively with this aspect of Papua New Guinea law.

The authors lay a great deal of emphasis on the decided cases in an apparent recognition of the fact that the Companies Act notwithstanding, the judiciary ultimately is entrusted with the task of interpreting the law. They deal with some of the most recent cases from the British and Australian jurisdictions and explain in some detail the points of divergence between the law of Papua New Guinea and those of Great Britain and Australia law on the subject which are actually the sources of Papua New Guinea. An interesting case is the *Morris* case which illustrates the difficulty inherent in the attempt to inculcate in indigenous societies the intricate niceties and intrigues involved in corporate practice. While on paper, the law espouses one policy, the actors in the board rooms prefer 'to do their own thing' as the American colloquialism would put it.

That brings us to the issue of the need to devise indigenous business practice which would be easily understood and operated by the people. True to the National Founding Father's vision of achieving development 'primarily through the use of Papua New Guinea forms of social, political and economic organisations', the Business Groups Act, the Land Groups Act and Part XII, Division Four make provision for ways to enable indigenous Papua New Guineans to participate in the nation's economic life. The authors treat this matter very comprehensively, thus giving the book a rather refreshingly native flavour. Additionally, they delve into Papua New Guinea's rather complex social organisation to explain the near absence of the phenomenon of cooperative societies although the people's way of communal life would suggest rather strongly that the cooperative effort is indigenous to the people and ought to have been prevalent.

The authors do not leave out unincorporated business entities and treat quite adequately the phenomenon of partnership, which appears to be favoured by professional groups but not ordinary native Papua New Guineans. It is a sad remiss on their part, however, that they leave out in the exercise the role of unincorporated societies, which have assumed an important status in Papua New Guinea business life. A chapter or so on this aspect of business organisation in the nation would not have been superfluous.

The book has no Table of Statutes in spite of the numerous pieces of legislation adverted to therein. The index could also have been more compendious. The number of

typographical errors can be frustrating at times, and it is to be hoped that future reprints/editions of the book will display better proof-reading.

All said, this volume succeeds in the authors' stated aim of contributing to the University of Papua New Guinea Law Faculty's commendable programme aimed at replacing foreign texts of doubtful relevance with PNG-relevant and accurate books. It deserves a place on the shelves of the law student, the practitioner, the judge, the business executive and the ordinary businessman.

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