

Deborah Healey, *Sport and the Law: A Guide for People Involved in Sport* (Kensington: New South Wales University Press, 1989). Table of Cases, index, notes, pp. viii + 144.

It is now beyond dispute that the legal aspects of participation in sport are of great significance, both to players and to administrators. No longer should we be hearing ludicrous suggestions that sport is above the law or that the legal process should have no concern with sport. The law is omnipresent. Legal actions that are brought in connection with sport are not due to the machinations of lawyers, but exist to provide a remedy to those who have been injured. The difficulty with sports law is that it is a protean subject. It encompasses many aspects of law. It is difficult to find an expert with a comprehensive knowledge of all aspects.

A book of this kind is meant for the lay person rather than for the lawyer. Indeed, it must be said that this book would not be sufficiently detailed for use by lawyers. Nor should lay people regard it as a comprehensive text. It would be dangerous to rely on this book, except for the recognition of the significance of a particular legal area. The main merit of a book like this is to identify those issues on which professional legal advice should be sought.

The book is attractively produced, and entertainingly written. It is an easy guide to some of the areas on which the law is impinging on sport. There are, however, several errors of both law and sport which mar the generally satisfactory nature of this work. The delineation of the terms 'amateur' and 'professional' is superficial.

The chapter on violence has failed to take into account important studies done by the Australian Society for Sports History, and by Wray Vamplew and Roy Hay in particular. Moreover, the outstanding report by the National Committee on Violence has not received a mention. The description of the liability of incorporated and unincorporated associations should perhaps have been expanded to give more attention to the Associations Incorporation Acts, clearly the statutes that most obviously affect sporting bodies.

On page 55, the law of defamation is mentioned briefly, but insufficient distinction is made between libel and slander and the liabilities attached to these two torts. I would query the opinion of the author that those called before a disciplinary tribunal do not necessarily have the right to be represented by a lawyer. (p. 63) This is ambiguous. It may well be that a tribunal does not have a duty to provide a lawyer. I very much doubt whether any disciplinary tribunal can refuse to hear a lawyer who has been properly appointed by a sportsperson in these circumstances. To do so, in my opinion, would be a flagrant breach of the common law tradition that each party has a right to be heard, and that those who are inarticulate have the right to have their case put forward by a skilled representative.

The section on torts (p. 69) might well have been expanded to include the duties of referees and umpires who allow foul play to continue. Indeed, I would suggest that a referee or umpire who allows play to proceed at all in unsafe conditions may be liable to any participant who is injured.

On page 31, the author states that the capacity of married women to contract is relatively recent. If 1882 is regarded as recent in the history of the common law, this statement would be correct. I would think, however, that most readers would regard a right that has existed for more than a century to be reasonably well established.

The law relating to minors is somewhat incomplete in that it fails to state that contracts of education and services for the benefit of a minor are valid and enforceable. This would certainly be of relevance to contracts relating to apprenticeship jockeys, for example. I would suggest that the remedies for breach of contract set out by the author are rather misleadingly described, and should have been expanded.

On page 48, the author correctly describes the hostility of the courts to exemption contracts but should have mentioned *contra proferentem* rule, which permits courts to construe a contract against the person or body that has drafted it.

On page 91, the author states that if a father buys a life-jacket and gives it as a present to his son, the father cannot sue the manufacturer. This would be correct in Contract, because there is no privity of contract. However, there would certainly be remedy in tort under the well-known rule of *Donoghue v. Stevenson*. The son might very well also have a remedy under the Trade Practices Act or some other appropriate consumer legislation.

Finally, I cannot agree with the assertion on page 96 that Australian courts consider disciplinary bodies of sporting associations as more apt than the courts themselves to deal with assault cases. One unreported South Australian case is given in support of this proposition, which, in my opinion, is manifestly wrong.

Finally, there are several areas of spelling and grammar which mar this book, as well as certain sporting errors. In the first category are 'adamant' (p. 98) and 'proferring' (p. 100). On page 33, 'their' should read 'there'. As far as sporting matters are concerned, it should be noted that the home of Carlton Football Club is Princes Park and not Princess Park, and that the celebrated Yorkshire writer is J.B. Priestley, not Priestly. Furthermore, the Italian team that

played against Liverpool in Brussels was not Turin, but Jeventus, one of two teams that represent the city of Turin, the other being Torino.

Notwithstanding a few small errors of this nature, this book is recommended to the general reader, with a caveat that a more specialised reader should seek professional advice, or at least acquaint himself further with the considerable periodical literature which has been written on sport and the law in common law countries.

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