

seems to us absurd to suggest that such matters should be dealt with in any other way.

4. Where, however, the BLS is dealing with major policy views — the tax summit, lobbyists registration, trade practices review — the work is undertaken in close co-operation with the LCA Executive and BLS submissions are cleared with the LCA Executive.

5. In addition, in order to ensure that the particular views of constituent bodies are taken into account in formulation of BLS submissions, it has been BLS practice for some time to seek comments from constituent bodies on specific BLS initiatives.

6. Peat Marwick claims the provision of administrative support to committees of the Section is sufficient and recommends that the Section "continue to operate and perform a significant role but without any secretarial/administrative support from the Secretariat".

7. The BLS responds as follows:

(i) the BLS plays a significant role as a direct result of the fact that it has available to it both the talent (through its specialist practitioner committee members) and the institutional structure to harness and use that talent. Removal of administrative support would cripple the ability of the BLS to play a significant role;

(ii) in response to the decision of some constituent bodies to cease to provide administrative support the BLS assumed part of the administrative burden by appointing its own unpaid minute secretaries for each committee. To ask our committee members to take on even more of this burden would be asking too much;

(iii) most of the direct cost of servicing BLS committees is already paid for by the BLS.

We do not mean to imply by this response that the administrative system within the Secretariat for servicing BLS committees is as efficient as it might be and we welcome any suggestions which Peat Marwick may wish to make in that regard.

8. The BLS has, over the past 12 months:

— operated 6 specialist committees (Banking Finance and Consumer Credit, Companies, Customs, Intellectual Property, Taxation, Trade Practices) involving over 120 highly specialised commercial lawyers in monthly committee meetings;

— produced, through those committees, major studies in the fields of futures industry regulation, taxation reform, trade practices, and cheques legislation and a significant number of

smaller studies on a wide variety of business law matters;

— published the BLS bulletin;

— brought overseas speakers to Australia;

— run free twilight seminars for members in Sydney, Melbourne, Canberra and Perth;

— established close links with the IBA Section on business law;

9. As an integral part of the LCA the BLS has, over the past 12 months:

— held numerous working sessions with Federal Government Officials;

— mounted significant opposition to legislation introduced into Parliament and opposed by the Law Council.

10. The BLS has done all of these things as an integral part of the LCA and with the assistance of the New South Wales Law Society and the Law Institute of Victoria (who provide premises for committee meetings).

11. The BLS is already achieving the twin aims of the members of the LCA as represented in the Management Report of high effectiveness and low cost. The BLS welcomes any proposals which will increase its effectiveness.

**Russell Miller**  
**Chairman, Business Law Section**

## Trade Practices Committee

The Trade Practices Committee has met regularly in Sydney and in Melbourne throughout 1985. Although the proposed amendments to the Trade Practices Act were not introduced into Parliament until October, the Committee was consulted on a confidential basis by members of the Attorney General's Department in relation to proposals to amend Parts IV and V of the Act.

Now that the proposed Amending Bill has been presented to Parliament, it is possible to compare its provisions with those foreshadowed in the ALP policy prior to the 1983 election, and, more particularly, in the Green Paper published in February 1984. It is apparent from the provisions of the Bill that the work done by the Committee in making submissions, both in relation to Labor's initial policy proposals in 1983 and in response to the

# ANNUAL REPORT COMMERCIAL LAW COMMITTEE

Green Paper, coupled with the confidential discussions of recent months, have resulted in the adoption of the substance of a large number of the Committee's suggestions. Of particular note are the decisions to leave section 49 untouched: the treatment of section 46, (given the policy decision to lower the threshold): the retention of dominance in section 50 and the treatment of off-shore mergers: the treatment of unconscionable conduct (given the policy decision to regulate it) and the abandonment of so-called procedural provisions which in fact would have eroded traditional rights of litigants.

Earlier in the year the Committee combined with the Intellectual Property Committee to make submissions to the Commissioner of Patents concerning the report of the Industrial Property Advisory Committee insofar as that report would have made Patent Law subordinate to Trade Practices Law. The two committees were unanimous in their extensive criticism of the detailed proposals in the IPAC report, and it remains to be seen whether the proposals will be pursued.

At present, the Committee is engaged in consideration of the Bill to amend the Trade Practices Act and expects to hold seminars early in 1986 in virtually all state capital cities to discuss the consequence of these amendments.

Throughout 1985 the Committee continues to work extremely well. At this time when the Law Council itself is under threat and its various constituent bodies appear divided, it is encouraging that practitioners expert in trade practices from both sides of the legal profession and from all mainland states and the ACT have been able to put forward constructive views to the government and to have those views heeded.

**Mr A. L. Limbury**

The Committee met regularly throughout the year. Sub-Committees were constituted for specialist purposes.

Amongst the matters considered by the Committee, on reference from the Business Law Section were:

- the Australian Law Reform Commission Discussion Paper on Insolvency;
- the Companies Amendment Bill 1985;
- the Bankruptcy Amendment Bill 1984;
- several Accounting Standards released by the Accounting Standards Review Board;
- the Insurance (Agents and Brokers) Act, 1984, (Commonwealth);
- disputes between taxpayers and the Commonwealth Taxation Office;
- the Statute Law (Miscellaneous Provisions) (No. 2) Bill — Amendments to the Bankruptcy Act, 1966.
- the Companies and Securities Legislation (Miscellaneous Amendments) Bill, 1985;
- proposals to review the Companies and Securities Co-operative Scheme.

The members of the Committee during the year were:

Michael Boud (Chairman), Greg Boyle, Derek Chantler, Kevin Edwards, Peter Huston, Rob O'Conner, David Aitken, Steven Pynt, Wido Peppink, Rob McKennie, Judith Begley, Peter Beekink and Brian Pass.

**M. E. Boud  
Chairman**

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## Publishers Note

In the August 1985 issue of Business Law Bulletin certain paragraphs at the end of an article by M. J. McCusker were transposed. The article, titled, "A lawyers nightmare — securing a creditor over goods of corporate entities and trusts" was first presented at the University of Western Australia Summer School earlier this year. We apologise to the author for the error.

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