

BOOK REVIEWS

***Charity Fund-Raising and the Public Interest -
An Anglo-American Legal Perspective (1990)***

by Peter Luxton, Solicitor and Lecturer in Law, Unit for
Commercial Law Studies; University of Sheffield.
Avebury 320 pages - £32.00.

The topics of charity fund-raising and public collections have become the subject to intense interest over the past few years. This is not least because of some serious cases of abuse which have come to light. The Woodfield Report in particular devoted no little attention to this and concern about fund-raising abuses was one of the moving forces behind the new charities legislation.

Peter Luxton's book on the legal controls which regulate charity fund-raising was published in December 1990. Sadly a considerable part of its discussion of the substantive law in this country has, of course, been overtaken by legislation. But enough of interest remains to engage serious attention on the part of the reader.

The book starts with a chapter putting charity fund raising in context and then proceeds to discuss the history of the legislation which preceded the provisions contained in the Charities Act 1992. This was enacted in a piecemeal way and resulted in an untidy array of separate statutes covering street collections, house to house collections and war charities. The ambit of the legislation affecting war charities was extended to charities for the disabled but its provisions fell into desuetude. The chapter on history also covers the various reports and papers which preceded the 1992 Act. After dealing with the role of the Charity Commissioners the author then considers the unsystematic nature of the regulation system and the problems caused by the increasing use of professional intermediaries.

In chapter 5 Dr Luxton covers various solicitation techniques and the law governing their exercise, much of which has now, of course, been overtaken by legislation. In the following chapter the author deals in appropriate detail with the use of money raised, and the vexed questions of excessive fund-raising fees. This chapter contains a valuable discussion of the Lotteries and Amusements Act 1976. He concludes his survey of the English scene with an excellent discussion of disaster funds and non-charitable appeals, highlighting the potential damages of the latter, and with the failures of fund-raising enterprises. This last mentioned discussion covers business failure as well as cases where there is a failure of purposes or an insufficiency of funds.

The next section of the book is devoted to a searching analysis of the American experience and there is much here of interest to comparative lawyers.

The substantial part of the book concludes with a chapter setting out the author's conclusions.

The whole study is distinguished by great industry and scholarship. The bibliography

gives some idea of the pains Dr Luxton has taken: over 180 articles and books are referred to, and throughout the work there are references to press reports and other interesting sources. Avebury are to be congratulated on publishing such an admirable book and this reviewer cannot be alone in hoping that in due course either a second edition or another book on charity fund-raising after the Charities Act 1992 will flow from the pen of Dr Luxton.

HP

***Housing Associations and their Committees:
A Guide to the Legal Framework***

by Anthony Taussig, Barrister (1992). National Federation of Housing Associations.

Housing associations are now an important feature of our society and there has for some time been a need to focus more attention on the law affecting them. To date there has been only one monograph to consult: John Alder and Christopher Handy *Housing Association Law* now in its second edition.

Anthony Taussig, the author of this guide, is a practitioner at the Chancery Bar and was Chairman of the legal sub-group of the Activities and Structures Working Party of the National Federation of Housing Associations, and in his Preface he pays tribute to the assistance he has received from that legal sub-group which included not only solicitors but also members of the Housing Corporation.

The guide is divided into six parts. Part I considers the legal nature of a housing association as an industrial and provident society and the supervisory bodies namely the Registrar of Friendly Societies the Charity Commissioners and the Housing Corporation. Part II goes on to deal with Committee Members and their duties. In connection with charitable associations the author focuses upon the uncertainty as to whether committee members of charitable housing associations are under a higher duty of skill and care than the committee members of non-charitable associations. After ventilating the arguments for and against a higher "trustee" standard of skill and care he advises committee members to proceed on the basis that the higher (trustee) duty applies. He then outlines the ways in which committee members may protect themselves against personal liability by ensuring they have the requisite competence and where necessary independent advice and, in the case of charitable associations, the protection of advice from the Charity Commissioners.

In Part III the provision of members of a housing association, the property of such an association and the delegation of powers are all subjected to an appropriate overview.

Part IV proceeds to discuss in general terms various activities and the risk of undertaking them and so far as charitable housing associations are concerned it contains some of the most central questions involving the powers and permissible activities of charitable housing associations. Among the questions which the author addresses are: the meaning of "providing housing", of "persons in necessitous circumstances", and of "associated amenities", the provision of services for people who are not tenants, the adoption of wider objects, the providing of services for other bodies and for co-ops, payments to tenants for surrender of tenancy, charity shops and shared ownership.

The various administrative powers of housing associations are considered in Part V while Part VI addresses the problems of subsidiaries and associate bodies of housing associations, in other-words 'groups'. Three Appendices cover the self dealing and fair dealing rules, the composition of committees of non-charitable associations which are controlled by charitable associations, and the impact of insolvency as it affects associations.

The approach adopted throughout is to set out the principles in a series of propositions divided and subdivided in note form and to follow this with some brief legal comment.

Mr Taussig's guide is not a book but is, rather, what it announces itself as being, namely a guide. The structure is somewhat skeletal but where it is necessary there is some tasty intellectual meat. The somewhat rough approach means that points stand out more clearly, and non-lawyers working in housing associations may find this helpful. A further virtue of the guide is that it discusses practical issues which have escaped attention in, for example, *Alder and Handy*. This is particularly observable in relation to charitable housing associations and the responsibilities of committee members. All in all this is a most welcome addition to our knowledge of housing associations and we must all be grateful to Mr Anthony Taussig and his publishers for producing this specialist guide. It will no doubt be the first port of call for anyone considering problems involving housing associations.

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