

BOOK REVIEW

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Unconscionable Conduct – The Laws of Australia Edited by Paul Vout; i-lxvi, 1-549, bibliography 551-558; index 559-572 (soft cover) (2006) Thompson Lawbook Co rrp \$145

This book is a testament to the strength of the encyclopaedia, The Laws of Australia, published by the Thompson Lawbook Co that this part can stand as a separate text. It is taken from Title 35 Unfair Dealing in that 40,000 page work. This book will be most valuable for practitioners in the area who have no ready access to the encyclopaedia.

There are sections on misrepresentation, the notion of unconscionability, estoppel (by which a party may be precluded from asserting fact or law inconsistent with another earlier assumed state of affairs), duress (which relates to illegitimate pressure exercised by one party on another), undue influence (that involves taking advantage of a position of dominance), and unconscionable dealings under federal and state statute law. In the preface, the Honourable Justice Michael Kirby says "Whilst other branches of the law wither and die, this is one facet of law's empire that will be with us as long as law is."

This area of law is one where the tension to be resolved is not between good and bad but between two goods: certainty and justice. Another tension is between a narrow and a broad interpretation of statutes which refer to unconscionable conduct "within the meaning of the unwritten law". These tensions will continue to be worked out in the courts.

The titles of the various topics give an excellent guide to the categories for which legal remedies are available. Authorities are provided for each paragraph, with over 800 cases quoted. The increasing volume of litigation and the ease of capturing and researching it electronically continue to extend the detail available. Those cases will assist the practitioner to find an analogy to the facts of a particular dispute.

This highly reliable book will earn its place on the shelf of any practitioner in the area who does not have the encyclopaedia.

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