

Filthy Lucre

The Money Trail: Confiscation of Proceeds of Crime, Money Laundering and Cash Transaction Reporting

*Edited by Brent Fisse, David Fraser and Graeme Coss
The Law Book Company \$90.*

Reviewed by **DEREK PARKER**

The *Money Trail* tells you everything you need or want to know about the legal regime designed to combat the use of ill-gotten gains. It goes a long way towards remedying the widespread misconceptions that the anti-laundering laws apply only to gangsters, criminals, professional tax-evaders and other denizens of the financial sector's underside.

In fact, as the book details, the legal system established to follow the trail of cash "has potentially drastic effects for banks, finance companies, accountants, solicitors, barristers, land agents and other persons accustomed to professing innocence". Unlike in the United States, there has been virtually no political lobbying by these groups arguing that the legislation is so broad that it will inevitably entangle even those who act with scrupulous honesty.

The 19 essays in *The Money Trail* cover a great deal of ground — so much that the book cannot be called an easy read. But through careful editing, each piece gets to its point, and there is a good balance between theory and practice.

An early essay by Graham Pinner, deputy director of the Cash Transactions Reports Agency (now known as AUSTRAC), explains how the Cash Transactions Reports Act is structured and how the organisation works, and

notes that the legislation is deliberately aimed broadly at all forms of white-collar crime rather than only at drug-traffickers.

Academic David Fraser takes a more critical approach, arguing that cash transactions reporting may be the wrong way to go, representing an honour system for people known to be dishonest. He cites some interesting figures to support his case: for example, one US study showed that only 0.0062 cents of every illegally earned dollar from narcotics traffic is subject to recovery action. Breadth of reach, he argues, does not necessarily equate with effectiveness.

In a later essay co-written with Brent Fisse, Fraser expands on some of these concerns, looking in detail at the practice of "smurfing" — transactions apparently structured to avoid the disclosure requirements (such as depositing funds in amounts which individually fall below the \$10,000 threshold). Section 31 of the Cash Transactions Reports Act is aimed at overcoming the practice but suffers from severe difficulties of definition (a common problem with the legislation). The problem is that financial institutions still face the threat of criminal liability, even if they act in the best of faith.

An even more troubling matter is the act's definition of "cash dealer", an issue explored by commercial lawyers John O'Sullivan and Stephen Mitchell. Even real estate agents and travel agents might be caught by the term and may therefore be required to comply with the legislation's reporting and account separation requirements. Subsection 10(2) of the act provides exemptions but it seems to create more problems than it solves, referring to amounts "reasonably commensurate

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with lawful business activities" — whatever that means.

Sanctions for those who fail to comply with the act, either through criminal intent or simple ignorance, raise a new set of problems. Forfeiture of assets is a crucial concept, but Arie Freiberg and Richard Fox point out that forfeiture has become disconnected from the issue of guilt or innocence and has the potential to act in an entirely arbitrary way. They suggest that forfeiture should be consciously connected to the conviction and sentencing of law-breakers, operating at the judicial instead of the administrative level.

In the book's closing essay, Fisse suggests methods for compliance distilled from the liability control systems devised by leading US and Australian companies. Meeting the basic requirements of the law, he concludes, is possible — but no-one would call it easy.

Keynes of Bloomsbury

Maynard Keynes — an Economist's Biography

*by D.E. Moggridge
Routledge, London (distributed by
The Law Book Company), \$59.95*
Reviewed by **E.F. GILLIN**

John Maynard Keynes (1883-1946), the most influential economist of the twentieth century, made a unique contribution to public affairs and to Britain's cultural life. Drawing on an un-

matched knowledge of Keynes, Professor D.E. Moggridge has taken a fresh and revealing look at the man and his achievements.

Moggridge, Professor of Economics at the University of Toronto, has published widely in the fields of modern British monetary history and economic thought, with particular reference to Keynes.

In this book he gives extensive coverage to the many aspects of Keynes's life and work, including the significance of the role of Lydia Lopokova, the Russian ballerina whom Keynes married in 1925, his academic career at Cambridge, artistic Bloomsbury, official Whitehall, and his achievements and failures in each of these spheres.

With its careful documentation and its intimate knowledge of its subject and his many worlds, Moggridge's biography establishes a new benchmark in the study of Keynes. The text, with a useful bibliography, photographs and extensive index, is supplemented by an unusual and interesting *dramatis personae* with brief biographical notes on about 600 academic, political and other associates of Keynes.

It should be indispensable for econ-

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omists and students of economics, financial controllers, historians and others with an interest in the creation of

ideas and institutions which are still prominent in the late twentieth century.

Telling trends

Statistical Indicators for the Economic and Social Sciences

by Robert V. Horn

Cambridge University Press, \$70 hb, \$29.95 pb

Here is an unusual book which could be useful to investment analysts in evaluating the significance of economic trends.

In this unique, practical and comprehensive guide to statistical indicators, the well known Sydney economist Dr Robert Horn covers aspects such as the construction and interpre-

tation of the indicators and their uses and abuses. He provides readers with a useful tool of analysis for the formulation of policies in economic management and the wider fields of the other social sciences.

The book tries to demystify the scientific and pseudo-scientific aura which surrounds statistical information and shows how it can be applied for practical purposes. It covers a range of disciplines from economics, health and education to more specialised areas of culture, human rights and peace research. — E.F. Gillin.

AIRLINE DEREGULATION

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attributed to the economic downturn rather than to increased competition.

In considering the effect of Compass at the interstate level, the evidence suggests that actual competition matters more than potential. Average airfares fell more in those routes where Compass was competing than in those where it was not.

Intermodal competition

The US experience shows that intermodal competition increased substantially after the Airline Deregulation Act was passed in 1978. The major bus companies, Greyhound and Trailways, had to cut prices to attract customers who were lured away by the cheap airfares. Amtrak introduced special deals for train passengers. In Australia, the level of competition between air travel and land travel (bus, train and car) was very low before airline deregulation. However, data on intermodal competition are not

available for Australia.

Conclusions

There were some grave concerns over safety issues before deregulation occurred in Australia, with media reports showing how the safety of new airlines might be compromised. That did not happen.

There was also concern that service quality would deteriorate after deregulation. However, market research has shown that tourists usually look for cheaper prices and are willing to put up with lower quality in items such as food, crowded airport terminals and so on. However, business travellers are more sensitive to such factors.

In the rise and fall of Compass, we witnessed a growth in the tourist market segment of airline passengers. With "one-class" service, Compass was less than successful in attracting business travellers. A future entrant in the market will have to pay more attention to

this important segment, which provides a high profit margin on every seat sold.

Unlike in the US, hub-and-spoke operations which improve capacity use and reduce costs did not develop in Australia after deregulation. This was hardly surprising: given the much smaller population, the volume of traffic is much lower on routes in Australia than in the US and the number of routes is much smaller.

However, with the public float of Qantas, an *international* hub-and-spoke system across the Pacific seems to be on the horizon with Honolulu, Auckland, Sydney, Singapore, Hong Kong and Tokyo (or Osaka) as the hubs.

But such a development will not help the Australian domestic market unless the Commonwealth government is prepared to grant foreign airlines concessional access to the domestic market. ■