

REVIEWS

BAILMENT

by N.E. Palmer; 2nd edn; Law Book Company 1991; 1723 pp; \$225.00 (hb).

Bailment is a substantial and imposing work, in every sense of those words. (The second edition runs to over 1700 pages; the first edition was just over a mere 1000 pages.) It is, however, that rare thing among law books: both a 'good read' and an authoritative, wide-ranging and detailed text.

Given that the law of bailment is often only referred to in passing in either a torts or a contracts law course (or both), there may be those who doubt the need for such a voluminous text. Yet as stated by Palmer, '[b]ailment is one of the commonest transactions of everyday life. Its breadth and diversity are enormous' (p.1). That this is indeed so is only too clear if we analyse the nature and elements of bailment, as Palmer does in Chapter 1 of the book. Derived from the French verb *bailier* (to deliver), bailment is essentially concerned with the transfer of possession (but not of ownership) of personal property from one person (the bailor) to another (the bailee). But despite the linguistic origin, a bailment may arise without the mechanics of delivery from bailor to bailee, for example, where a person finds an item of lost property belonging to another. A bailment may also arise without an underlying contract (once considered to be essential) and may arise without the consent of the bailor. Looking at everyday transactions, we find that many are indeed instances of bailment. Every time we take our shoes or our cars to be repaired, or our clothes to be dry-cleaned, we enter a bailment relationship with the repairer or the dry-cleaner. Every time we lend an item of personal property to a friend or a neighbour; enter a hire purchase agreement; send goods by air, sea or land; or mistakenly take someone else's suitcase, we enter a bailment relationship. The list of examples is almost endless. So, to, is the chain of 'head-bailors', 'sub-bailors' and 'sub-

bailors' that may conceivably be created.

Palmer demonstrates clearly the immense scope of bailment. Importantly he also stresses that while the law of bailment has much in common with the laws of contract, torts and property, it is an independent legal concept. For example, while a bailment may well arise from a contract between bailor and bailee, a valid and enforceable contract is not, in fact, a necessary pre-condition. Accordingly, those elements such as capacity to contract, intention to create legal relations, and consideration, etc. need not necessarily be present for a bailment relationship to arise. This holds implications for the availability of remedies in situations where there are no contractual remedies.

This second edition of *Bailment* is, of course, an updated version of the first. The book thus contains detailed discussion of the nature and elements of bailment; its classifications; the rights, remedies and duties of the bailor and the bailee; the concept of 'possession'; the different categories of bailments (e.g. bailments for reward, gratuitous work and labour); the law relating to the hire of custody and of work and labour; carriage of goods by land, rail and air; hire of chattels; extended or constructive bailments; bailment by attornment; pledges and pawns; finding; the liabilities of innkeepers and boarding house keepers; exclusion clauses; and the rights of third parties.

The case law covered is primarily that of England, Australia, New Zealand and Canada but also includes some illuminating cases from other common law countries. The analysis of statutory provisions is, on the whole, confined to England and Australia. Full tables of cases and statutes are included at the front of the book; a reliable index at the back.

Apart from general updating, there are some significant differences between the first edition and this second edition. First, Palmer has enlisted the support of specialist contributors in some areas. Secondly, some chapters

(those on carriage of goods by road, rail and air) have been entirely rewritten; and others (including those on the remedies of bailor and bailee, and on exclusion clauses) have been extensively revised. Thirdly, the chapter on pledges and pawns is new; a former chapter on carriage of goods by sea has been left out; and former discussion of statutory schemes for consumer hire agreements has been left out — this last omission justified by the burgeoning nature of consumer credit law and specialist literature dealing with it.

Fairly obviously, given the retail price of *Bailment*, the marketing of the book is not slanted towards students but towards legal practitioners. However, it is a book of immense value to both students and practitioners and all law libraries should contain a copy of it. Both students and practitioners should benefit from reading the two introductory chapters; and, especially for practitioners, the bulk of the book constitutes a remarkable repository of detailed and wide-ranging information on the law of personal property.

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WORKING FOR CHANGE: The movement against domestic violence

by Heather McGregor and Andrew Hopkins; Allen and Unwin, 1991; paperback \$19.95.

A major portion of *Working for Change* is not, in fact, devoted to the movement against domestic violence strictly. That is one of the interesting aspects of this book. The authors have skilfully brought together a number of strands of what may be called 'alterna-