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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-

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tive politics' and slot the movement against domestic violence into what is revealed as the changing face of Australian politics in the late 20th century. So, for example, you will find a detailed analysis of the Franklin River Campaign, an interesting account of the rise of the female public servant class, known as 'femocrats' and a dissection of the revolution in Nicaragua. All lead to a social movement against violence in the home.

Call for action and activities to establish crisis services, refuges and associated structures to assist women and children who are victims at the violent hands of husbands, male partners or male relations is a nationwide movement with nationwide responses. The authors explain: 'The movement against domestic violence has adopted grass roots strategies to a greater extent than the environment movement' (p.139). The book seeks to focus on how the movement achieved high profile and effect in Canberra. The successes and difficulties of the ACT experience are used to make and keep the movement moving forward through written recording and analysis.

The choice of factors analysed as having impinged on the development of the movement gives the book its twist. Positive factors are identified in chapters entitled 'The Women's Movement and Awareness of Domestic Violence' (Chapter 1), 'The Femocrats' (Chapter 3), 'The Crisis Service as an Organisational Hybrid' (Chapter 5) and 'Strategies for Social Change' (Chapter 10). More problematic impacts on the work for change are looked at in the chapters about delivering the service (Chapter 6) and the chapters on interaction between the crisis service established and the police and legal system (Chapters 7 and 8).

Working for Change seems framed to push (rather than persuade) for further change and keep up a momentum; what the authors write about is making a new system, now operational, begin the *real* work. Those falling behind the changes are challenged by the

chronicles of 'The Refuge Movement' (Chapter 2) and 'The Origins of the Domestic Violence Crisis Service' (Chapter 4) which provide cogent argument for supporting the experts in the field (the women working in the refuge movement, in particular) to continue with the backing of those institutions which could not of their own volition address the problem but which retain the power to call men to account.

Having called the challenge, the authors go on to put strong views (in the chapters on police and the legal system) to keep alive the debate as to the effectiveness of these powerful institutions. The authors argue against the preference for traditional notions of justice demonstrated primarily by police and legal bodies. The consequences of such views include the realities that a man who commits an offence of violence against his family can remain in 'his' home while women and children made homeless by the crime committed against them receive no protection or security and, in the working of that system, workers for the victims of violence are dismissed, despite their experience and the assistance they are able to provide in the field. The net result is identified as an attitude that the law relating to domestic violence is not 'real law'. The police reflect this attitude in the arrangement of the police force such that 'domestics' often do not receive any priority response.

To counter the attitude that domestic violence is not important or can be resolved without 'outside' intervention *Working for Change* confirms the call for making violence in the home a crime, like other violent behaviour, and a concern of the community at large. Chapter 9 argues that it is only by the systematic use of the criminal law that community attitudes to domestic violence will change.

After reading nine chapters, the question we are left with is a challenge too: can women go further and use the mechanism of the criminal law to achieve what is perceived to be good? In her foreword to the book, Jocelyne Scutt posed a warning by concluding

that *Working for Change* 'provides a strong and ever strengthening base for women of the future' (p.xviii).

The reader closes this book on a promise: work for change will not stop. The authors set a compelling example in commitment to the search for better understanding and expression of the domestic violence problem. Both authors are more than qualified to write about domestic violence having spent considerable time working for the changes already made. They have achieved a professional approach which is also very interesting to read, on a subject that is always heavy.

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SHAREHOLDERS' RIGHTS AND REMEDIES

by Peter Willcocks; Federation Press, Sydney, 1991, paperback \$40.00.

Despite the 'great leap forward' in the early 1980s in Victoria, New South Wales and Queensland to provide for incorporating non-profit associations as in the other States and Territories, a significant number of community groups are incorporated or registered under the *Corporations Law*. In the ACT, for example, both the Welfare Rights and Legal Centre Limited and the Canberra Repertory Society are companies.

For a growing number of activists, a successful method of achieving their objectives is to become members/shareholders of major manufacturing and developer corporations and influence their activities and policies 'from within'.

For both groups, *Shareholders' Rights and Remedies* by Peter Willcocks will be most useful as it will be for those shareholders and their advisers who simply need to address the mechanisms available to meet