contains a detailed contents index, a glossary of medical terms and legal concepts, a sizeable bibliography and a contact list of AIDS groups, equal opportunity and medical complaints bodies.

The doctrinal approach adopted by the authors is appropriate given the stated purpose of the book. There is, however, an additional need, and that is for readers to have some understanding of the context of the law in this area, namely, a society and legal system hostile to gay men's sexuality. Given the nature of the Australian epidemic as one which has, and largely continues, to affect gay and bisexual men (over 80% of infections and deaths are of gay or bisexual men), some discussion of this context is important in achieving the authors' stated aim of educating readers. The need for readers to be sensitised to these issues can neither be overstated nor assumed.

The authors are to be commended on their comprehensive coverage of this important topic. The book fulfils its aim admirably. It should prove a useful resource for lawyers providing legal advice to people with HIV and AIDS, and the large number of other workers who provide services in which legal issues concerning HIV/AIDS arise.

ANNA CHAPMAN
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The Law of Options

by Donald J. Farrands; Law Book Company, Sydney, 1992; 157 pp. $45.00.

What is an option? Why does it matter? An *option to purchase* something is the right to compel the owner of the asset to agree to sell it on terms described in the option at some time in the future. When the option is exercised a binding contract of sale is formed. Options are created and traded in a range of commercial transactions. These are four of the most important:

First, there are options over company shares and other corporate securities. With the Options and Futures Binge of the 1980s in mind this must be a significant field for investigation. In 1984, 489,952 call contracts worth $151.5 million were traded on the Australian Options Market . Four years later, 6.4 million call contracts worth $2574 million were traded. A 1599% increase ($ terms) in the popularity of the transaction over four years could hardly go unnoticed. This form of options trading is notable for apparently *pointless* transactions conducted in mystical terminology within a narcissistic subculture. The actual exercise of thee options, the *point* of an option transaction, is fairly uncommon. Profits are made by sale of the option on the secondary market. With such a boom in trade it is perhaps not surprising that this *junk bond* culture also pervaded Australian culture at large in the 1980s. In the ensuing bust, really interesting legal questions could be posed to this industry, but the author of *The Law of Options* claims no interest in traded share options (p.1).

Second, there are options to purchase or renew various interests in land, and these are more commonly dealt with in legal writing. In a booming real estate market an option to purchase land is a really valuable acquisition - one need only wait. Exercise it? Of course not, that is not the point!

Third, as Mr Farrands points out, there are some option transactions which are inspired by stamp duty and taxation savings, and proceed despite their doubtful enforceability (pp.2-3). Their enforceability, after all, is not the point.

Fourth, there are also security transactions which employ options, especially *put options* within company groups (pp.3 and 33) to secure advances of money and to cover other risk exposures. When the put option is exercised the optionor is obliged to purchase the relevant asset at a predetermined price. This is useful in liquidation.

In this wider commercial context there is a need for a law book dealing with option transactions across the fields of property law and commercial law where they are found, which would locate the various option transactions within relevant institutional structures, and equip readers to analyse option transactions from the perspectives of the main commercial players, as well as explaining legal principles and administrative bodies which claim some relevance to this sphere of commerce. It would draw some conclusions about the social and economic interrelationships of the legal and commercial fields: for example, the practice of *risk-free hedging*, in which two options are written and traded with respect to one share, seems to require some explanation when placed beside ideas of unconscionability (p.32).

The paradox of the option transaction, that an option is tradeable because it is property but the rule that one cannot give what one does not have apparently does not apply because an option is *not* something which the grantor *has* and *gives away*, invites a wider rather than narrower perspective. Someone else must be astonished that through this paradox a sphere of commerce can transcend not only reality but fundamental legal principle as well.

How do they do it? Technical legal considerations aside, this cries for analysis of the role of the law in encouraging socially productive investment, export expansion and real growth on the one hand, and, on the other, its role in facilitating the exchange of such volumes of 'wealth' through options and futures markets. This analysis would identify who participates in them and what their social and economic contribution might be. How much of this wealth originated in ordinary deposits of savings in the investment institutions which ultimately failed? Should a court, faced with a choice between competing formulations of principle in the more ambiguous reaches of the law of options, lean to principles which would enhance orderly social productivity or, as they have one, simplistically opt for freedom of commerce as an interpretative principle without further investigation. Is it possible to describe the accumulation and exchange of wealth in Australia within a legal framework at all? Are there alternatives to the constant production of new *near-property concepts* such as a *right to an option, a right to accept an offer,* and an *option of a future,* which are nevertheless traded? Who really wins from it? Are there other capitalist legal systems which also allow this open-ended production of concepts but, in contrast, have in place effective public economic steering mechanisms? Do the legal systems of the world's so-called locomotive economies permit this open-ended production of concepts? That would be a real treatise on the law of options.

So, on what project has Mr Farrands embarked in writing *The Law of Options*? In his Foreword, Mr N.H.M. Forsyth, QC, suggests that the author has succeeded in the '. . . infinitely more learned, and unquestionably more gentlemanly . . . ' pursuit of writing 'a most useful and impressive monograph' and *not* 'a mere book' (p.ix). The author's own intention was to make '. . . the nature of an option and its characteristics . . . more fully understood; from there, the lawyer should be able to achieve certainty, and the other and more specific objectives sought for his or her client' (p.xi).

Within his classical legal paradigm the author has achieved his objective. The work is logically organised, into the thought train of a lawyer searching for the

property concept that best expresses the client's relationship to a material resource and achieves the client's other objectives, so the lawyer can draft the relevant document. To assist in this, one quarter of the volume of the text is devoted to a dispassionate analysis of the stamp duty, capital gains tax and fringe benefits tax implications. The writing is not gender specific, which is especially refreshing in property law texts. The author's style is very clear.

True to this paradigm, the text explores differing judicial views on points of principle, seeks to resolve them using traditional techniques and the likely implications of a contrary (' . . . but if I am wrong') finding. Broader policy considerations are not drawn upon to inform the choice when resolving an ambiguity or difference of view. Yet, even granted the classical paradigm, theoretical issues squarely raised in issues concerning the status of unregistered interests in real property and their vulnerability in priority conflicts are dealt with superficially (pp.17, 33-34 and 38). One could expect more, particularly considering the controversy in one of the author's jurisdictions of practice - Victoria.

This limited approach possibly reflects past approaches to property law in legal education, in which the historical fiction has been perpetuated of a Golden Age of pure English general law before colonial non-lawyer administrators spoiled the *real art* with the Torrens system. And when these non-lawyers used words like 'conclusive evidence of title' they did not really mean it because they did not know what they meant because they were not lawyers. As this is the general lore about registered title it is probably not fair to criticise the author of this work for remaining within it by writing as though the land title registration system has only marginal relevance to land transactions. In any case, one suspects that the audience for whom the text is written might well be looking for a form of property which can happily exist privately, *off* public registers, in situations where there is sufficient control over other potential players by other means, such as credit lines, and which fulfils other criteria as well. If so, the author would have appeared naive if he had laboured the point that the land title registration system is the legal framework for private titles held of the Crown in Australia and earnestly sounded the logical alarms about the potential vulnerability within that framework of unregistered interests in land not protected by caveat.

Stepping yet further into the world of the classical property law paradigm, one can isolate more microcosmic retreats by the author from theoretical issues of property law, but no doubt the courts *will* continue to bestow upon options the imprimatur of *property* regardless of which theoretical explanation is adopted. Within the author's paradigm, such criticism could well be explained away as *academic* - and that really is the point.

The author has not written a monograph - it is no treatise. It has a narrow view of its subject matter and does not examine theoretical problems even squarely within its field. It assumes the commercial, institutional and jurisprudential environment of its subject matter. My criticisms do not, however, reduce the text to a *mere* book, as the Foreword of Mr N.H.M. Forsyth, QC, puts it. It is a practical, well written and logically organised book. This book will please the audience which it addresses while that audience prepares to perform specific practical and strategic tasks. It was a good idea to write a book dealing with options at a general level of legal principle. This book might also be informative background reading for readers who contribute to the development of socially responsible land title management policy, and readers interested in options as intriguing 'wealth phenomena' from a legal view. However, through the narrowness of its paradigm and the absence of any critical perspective on its subject matter, the book gives no lead to alternative future developments in the field.

MURRAY RAFF

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NOTICES

CONFERENCES

Has Adoption a Future?

Call for abstracts and registration of interest

The Post-Adoption Resource Centre
Date: 29-31 August 1994
Venue: Sydney
Contact:
The Conference Secretary
PO Box 171
Paddington NSW 2021
tel (02) 361 0033 fax (02) 361 5427

Law and Literature Association of Australia Annual Conference

Call for papers

Date: 30 September - 2 October 1994
Venue: QUT, Brisbane
Contact:
Christine Higgins
School of Humanities
QUT Carseldine
PO Box 284, Zillmere Qld 4034

Victorian Federation of Community Legal Centres

Annual Conference

Date: 20-22 May 1994
The conference will look at issues of law reform and training in the areas of migration law, family law and legal aid applications. Those interested in community legal issues are welcome to attend. For information please contact Maria or Gareth on tel (03) 419 2752.

The Native Title Legislation Conference

The Centre of Commercial and Resources Law of the University of Western Australia and Murdoch University.
Date: 16-17 June 1994
Venue: Perth
The Conference will examine the *Native Title Act 1993* of the Commonwealth, the *Land (Titles and Traditional Usage) Act 1993* of Western Australia, and the *Native Title (Queensland) Act 1993*.

The conference will bring together leading experts in the law relating to native title and the native title legislation. Sir Ronald Wilson will open the conference and speakers include Judge French, the President of the Native Title Tribunal, Professor Garth Nettheim, Professor Richard Bartlett, Graeme Neate, Chair of the Queensland Tribunal and Dr Carmen Lawrence.

More details can be obtained from the Centre at the Law School, University of Western Australia, Nedlands WA 6009, fax (09) 380 1045.

National Community Legal Centres Conference

Date: 30 August - 2 September 1994
Venue: Perth
Contact:
NSW CLC Secretariat
1/245 Chalmers St
Redfern NSW 2016
tel (02) 698 2401