

Another major change is the deletion of most of the chapter which appeared in earlier editions as chapter 5, entitled 'The State'.

On the whole, this edition provides clear support for the editor's policy of treating the book as a text-book of living thought rather than as a dead classic, and justifies his re-moulding of its shape and content. It is hoped that he will be able in later editions to bring other parts of the book up to date as well—for example, chapter 16 on 'Persons' still contains some of the misconceptions which appeared in the earliest editions.

DAVID P. DERHAM

The Remuneration of Commission Agents in Australia and New Zealand, by P. E. JOSKE, Q.C., M.A., LL.M. and JUDGE A. S. LLOYD, E.D., Q.C. 3rd ed. (The Law Book Co. of Australasia Pty. Ltd., Sydney, 1957), pp. i-xii, 1-236. Price £2 10s.

It is not difficult to see why a third edition of this book has been called for. Anybody concerned with the commonly occurring problem of whether an estate or other commission agent has earned his commission would find this book most useful. After explaining the contract of employment, the authors deal with such matters as what constitutes an effective cause of sale, the requirement that the person introduced by the agent should be ready, willing and able to purchase, revocation of authority, the effect or failure of the principal transaction on the agent's claim to commission, the effect of the agent's misconduct, the effect of illegality, and a number of other topics. The authors first present the law in the form of short statements of principle on each of these topics. Each of these statements is followed by a treatment of the authorities. It is as if the authors drew up a code and then annotated it. This mode of treatment probably has the merit of meeting the needs of a lay estate agent, who may readily obtain a general idea of his legal position, while the more esoteric material required by legal practitioners will be found in the annotation. The authors seem to have spared no pains in collecting authorities; in addition to English, Australian and New Zealand decisions there are frequent references to authorities from the Canadian reports. This new edition would seem to be a desirable addition to any practitioner's library.

H. A. J. FORD

The Law of Real Property, by R. E. MEGARRY, Q.C., M.A., LL.B. and H. W. R. WADE, M.A. (Stevens & Sons Ltd., London, 1957), pp. i-lxxxiii, 1-999. Australian price £4 8s.

What manner of men are English law students? The publisher has prophesied that 'students with ambition will find joy in the clarity of this full and authoritative statement of the logical principles upon which the English law of real property rests'. Certainly the reaction of any Australian law student confronted with any text on real property—quite apart from one containing 999 closely printed pages—can be described as joyous only in the rarest of circumstances.

Nevertheless, with one important qualification, it can be said that a student who uses the well-known *Manual*¹ as a basic simple text and the work under review as his book of reference has chosen the best available tools to equip himself with an adequate understanding of the principles of

¹ R. E. Megarry, *A Manual of the Law of Real Property* (2nd ed. 1955)

real property. Conscious of the fact that comprehension is the greatest difficulty of the novice, the text has been strongly fortified with simple illustrations of the principles in operation.

The qualification relates to case-law. Teachers of real property are cautious not to swamp students with a flood of cases which are expected to be known in detail. Nevertheless in some areas, for instance in considering what is a fixture, whether a refusal on the part of the lessor to consent to an assignment by the lessee is reasonable, or in what circumstances a collateral advantage given in a mortgage can be enforced, a greater impression is left by a detailed examination of fact situations. Megarry and Wade have rarely included a note of the facts of decided cases. Consequently students must have an adequate and accessible library.

It can be confidently asserted that practitioners will find that this is the most complete modern text on the English law of real property and it merits a place on the library shelves of any self-respecting solicitor.

The arrangement of the text follows the familiar, illogical pattern of the *Manual*. While this has an irritating appearance of disorganization, it enables the legislative revolution of 1925 to be seen in its proper historical context with a minimum of repetition and omission. Of course, if the *Manual* and this book are to be used as complementary teaching texts it is desirable that their outline should be similar.

It comes as no surprise to one who has always respected the clear exposition of the legal principles relating to future interests contained in the *Manual* to find that the comparable section in the present work is one of the finest brief discussions of this difficult topic. Perhaps this is a proper place to bewail the confused state of Victorian law, where legal contingent remainders still strut the stage to the despair of anyone who considers that a legal system should be, at least, rational.

It is interesting to note the addition of a chapter entitled 'The Social Control of Land'. Too often there is a tendency for authorities on real property to imitate the ostrich and omit any reference to town planning and rent restriction legislation as though anything of the twentieth century was alien to the subject.

This raises the most serious criticism that can be made concerning the book. The learned authors had the qualifications and the opportunity to suggest criticisms of the existing rules and the path of reform. They have let the opportunity slip.

For instance they accept the ridiculous decisions that, in the absence of an express covenant, deny the tenant any action against his landlord if he is ejected by title paramount (page 619). When dealing with restrictive covenants they point out that a restrictive covenant remains enforceable indefinitely but fail to add that this rule, together with the difficulty of obtaining a release where a substantial and uncertain number of people may be entitled to enforce the covenant, retards the efficient use of land. Indeed it would seem far preferable to limit their duration to, say, twenty-one years and require positive action for renewal after this period.

Nevertheless this criticism should not be pushed too far. There is a brief assessment² of the operation of the 1925 reforms which is of particular interest to a reader in Victoria, where the legislative reforms are of a piecemeal character.

² 990 ff. In fairness it should be added that the text includes a number of criticisms of the 1925 legislation.

This is not the place to catalogue what the reviewer would consider minor faults. Yet it might be suggested that the separation of ameliorating waste from voluntary waste³ is liable to confuse the student. Despite the wide *dicta* of Farwell J. in *Manchester Brewery Co. v. Coombs*⁴ it is suggested that the assignee of a tenant holding under an informal lease dependent on the decision in *Walsh v. Lonsdale*⁵ has less security than the text would appear to concede.⁶ In fact, because of the judicial discretion, this is an area where general rules cannot be formulated. The decision in *Rogers v. Rice*⁷ hardly supports the wide proposition for which it is cited,⁸ and although there are occasional references to Australian cases it is perhaps unfortunate that there is no reference to the full discussion by the High Court of Australia in *Cowell v. Rosehill Racecourse Co.*⁹ of the Court of Appeal decision in *Hurst v. Picture Theatres Ltd.*¹⁰

Yet it is unprofitable and misleading to labour such insignificant points of difference. Eventually an honest reviewer must return to the conclusion that this is an admirable text, admirably presented. Indeed this review would be incomplete without a commendation of the accurate tables of cases and statutes, the valuable glossary, and the efficient index.

In conclusion it can be stated that the authors, in an unpretentious literary style which is occasionally clumsy but almost invariably clear, concise and informative, have made a substantial contribution to the study of real property. All English texts on the law of real property must be used with discrimination in Victoria, where nineteenth century legal concepts still reign supreme. However in the absence of any comparable local publication this book can be confidently recommended as a standard text.

D. J. MacDOUGALL

³ 99. ⁴ [1901] 2 Ch. 608, 616. ⁵ (1882) 21 Ch. D. 9. ⁶ 581.
⁷ [1892] 2 Ch. 170. ⁸ 606. ⁹ (1937) 56 C.L.R. 605. ¹⁰ [1915] 1 K.B. 1.

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