

BOOK REVIEWS

Transfer of Land Act 1954, by P. MOERLIN FOX. (The Law Book Co. of Australasia Pty. Ltd., Melbourne, 1957), pp. i-xxxv, 1-202. Price £2 15s.

This little book, which includes the text of the Transfer of Land Act 1954 with schedules, together with annotations, will prove most useful to the profession. Its publication is timely. For long the profession has come to lean heavily on Wiseman's *The Transfer of Land*, but with the repeal of the 1928 Act and its replacement by a more modern and streamlined version, the prop which supported Wiseman's book has collapsed and an annotation of the new Act was urgently called for.

Like Wiseman's volume, Fox's *Transfer of Land Act* takes the form of annotations of the Act. A comparative table relates the sections of the new Act to those of the old, and in the notes to the several sections, attention is drawn to such changes as have been introduced. For the most part, these changes have involved the pruning of much dead wood from the former legislation, the statutory recognition of practices long observed by the Titles Office, and the re-arrangement and re-drafting of sections to accord with more modern notions. An important innovation, however, is contained in Division 2 of Part II which provides for the compulsory bringing of all land under the Torrens System and the legislation of 'Ordinary' and 'Limited' Certificates according to the state of the title. This Division has not yet been proclaimed.

As was to be expected from a lecturer in conveyancing, Mr Fox's work is competently done. The annotations are concise and accurate. To a substantial extent they are based, with suitable acknowledgments, on Wiseman's annotations, although on occasions Mr Fox does not conceal his personal views on controversial matters. See, for example, his critical references to the decisions in *Gibbs v. Messer*¹ (page 42) and *McCull v. Bright*² (page 85).

This author's annotations are not so full or complete as Wiseman's. For example, Wiseman's notes to sections 72 and 179 covered sixteen and twenty pages respectively, whereas Fox's to the corresponding sections 42 and 43 cover some three and two pages only. The result is a compendious volume of some 200 pages as compared with a bulkier volume of some 650 pages.

In his preface, Mr Fox recognises that his work is no substitute for Wiseman, for he invites his readers to refer to that work for a fuller list of the authorities. Personally, I would have thought that Mr Fox would have rendered a still greater service to the profession had he expanded his annotations in such a way as to make any further reference to Wiseman unnecessary. Brevity and conciseness can be purchased at too great a price. There is, I think, much that could be excised from Wiseman's annotations without loss, and I trust that Mr Fox, in a later edition of his useful little book, may consider the feasibility of making it, consistently with conciseness, a self-sufficient commentary upon the 1954 Act—a substitute for, and not merely a supplement to the second edition of Wiseman's *The Transfer of Land*.

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¹ [1891] A.C. 248.

² [1939] V.L.R. 204.

The Law and Practice Relating to Sale of Land in Victoria, by F. BULLOW. Butterworth & Co. Ltd., Melbourne, 1957), pp. i-xxiii, 1-191. Price £3 8s.

Some seventeen years ago I read, for purposes of review but with pleasure and instruction, Voumard's *Sale of Land*. In my review ((1940) 2 *Res Judicatae*, 175) I hailed its publication as a notable work. The lapse of time and my frequent references in the meantime to that book have not diminished my admiration for it. The ten years spent in its preparation were well spent. I regret to state that I find none of the merits of Voumard's book in the volume now under review. This volume bears all the marks of a hastily compiled commercial production designed to extend the sales of Moss' *Sale of Land (N.S.W.)* to Victoria by virtue of its references, albeit incomplete, to relevant Victorian legislation and decisions of the Victorian courts.

The author claims no lofty aim for his book. He commends it to the legal profession in Victoria 'as a convenient book which may lighten to a small degree the demands of the busy practitioner'. However, success even in such a limited objective demands an orderly and logical presentation of the subject matter and, not least, an effective index.

A cursory glance at the table of contents, with its variety of loosely worded and connected sub-headings grouped under some nine chapters, excites misgivings as to the logical arrangement of the work as a whole, and an examination of the index discloses that it is far from satisfactory. To take but one or two examples—the only reference to 'requisitions' in the index is to page 122 but the main discussion of this topic, such as it is, is at pages 37-42, and one looks in vain in the index for the references in the text to the Statute of Frauds.

The author appears to assume that the busy practitioner will have no interest in underlying legal principles but will be assisted by the collection in one volume of a multitude of particular instances more or less connected with the topic 'Sale of Land'.

If the practitioner is fortunate enough to find in the book a case which in its facts is on 'all fours' with that currently worrying him, he may be helped if relevant authority has been cited; but otherwise he can expect to find no worthwhile exposition of legal principles to guide him. In this respect this book contrasts strikingly with Voumard's, which, with its logical and lucid composition of underlying principles, cannot fail to assist the intelligent although busy practitioner. The rival merits of these two books may readily be tested by the discussions in each of such important matters of relevance to the sale of land as mistake, misrepresentation, misdescription and defect of title. In the one, light is shed on subtle but vital distinctions; in the other, confusion.

The book under review has evidently been compiled with undue haste—a serious defect in a legal publication. What but haste in preparation could explain such statements as: 'a *contract*¹ may be treated as abandoned unless a valid acceptance is given within a reasonable time' (page 8), and the unintelligible statement of the proposition for which *Welch v. Handcock*² is cited (page 48). Incidentally on this same page will be found reference to '*Ellis v. Gaulton* (1803), (sic) 1 Q.B.', and to 'Griffiths, C.J.' It would perhaps not be uncharitable to attribute to haste also such statements as that a misrepresentation must 'form an integral part of the

¹ Italics are the reviewer's.

² (1907) 7 S.R. (N.S.W.) 404.