

BOOK REVIEWS.

THE LAW OF VENDOR AND PURCHASER IN VICTORIA.

The Law Relating to the Sale of Land in Victoria, by L. VOUMARD, LL.B., Barrister-at-Law, pp. lii, 590, Index 593-639. 1939. The Law Book Co. of Australasia Pty. Ltd. 65/-.

Maitland has somewhere said that owing to the action of Equity the mortgage is one long "*suppressio veri and suggestio falsi*." The same might be said of a contract of sale of land. The legal profession (including law students) is under a heavy debt to Mr. Voumard of the Victorian Bar for an excellent text book on this difficult subject. *The Sale of Land* is indeed an admirable treatise. The choice of subject was a happy one. For too long the profession in Victoria has had to rely on such standard English works as *Williams* and *Dart*, notwithstanding striking divergences in conveyancing practice in the two countries attributable in part to our Torrens System of Registration, and our weakness for the "long term" contract, rarely resorted to, apparently, in the old country. In the absence of a text book marshalling and discussing the many local decisions on Vendor and Purchaser an important body of case law has, it is feared, wasted its sweetness on the desert air. *The Sale of Land* has cured these ills. This book applies the principles enunciated in the English Courts to the special problems arising under local conveyancing practice and introduces us to a very considerable body of Australian case law. Over 100 cases decided in the High Court and 400 cases decided in the Supreme Court are referred to, as well as numerous articles in the Australian Law Journal.

In the arrangement of its subject matter, the book is refreshingly logical. In orderly sequence the author discusses the problems which confront the conveyancer from the time he receives his instructions until the subject matter of the sale has been passed to the purchaser by the conveyance or transfer. In traversing the path from contract to completion he explores many adjacent fields in the law of property not solely concerned with questions of vendor and purchaser—as easements, adverse possession, the Settled Land Act—exploration amply justified by the exiguity of Victorian legal literature. In a book so replete with good things, it is difficult to select the best. One cannot but be impressed by the concise but logically satisfying treatment of the difficult subject of mistake (pp. 8-24); the full and able exposition of the evergreen Statute of Frauds in its Australian setting (Chapters II-III); the very useful chapter on the Settled Land Act (Chapter VI)—is it too much to hope that this will result in fuller use being made of this most important legislation?—and the lucid treatment of "Particulars of Sale" coupled with the vital but often overlooked distinction between defect of title and misdescription (Chapter VII).

Chapter IX which discusses the meaning and effect of the conditions of sale under Table A of the Property Law Act, 1928 and Table A of the Transfer of Land Acts, 1915 and 1928, and the following chapters (X and XI) discussing the practical problems in investigating title on sales of land under the general law and the Transfer of Land Act respectively are of special value to the practising conveyancer.

A welcome feature is the frank criticism of decisions which to the author appear somewhat wayward. *Fosberry v. Burdekin*¹ (118), *In re Neal*² (123), *Ross v. Victorian Permanent Building Society*³ (154), *Harrick v. Rose*⁴ (155-6), *In re Hapytoz Pty. Ltd.*⁵ (162), *Curtis v. French*⁶ (240-1), *Harris v. Gollings*⁷ (299), *Tobin v. McCauley*⁸ (328), *Andrews v. Taylor*⁹ (392) and *Mussen v. Van Dieman's Land Co.*¹⁰ (508-9) are a few of the decisions which have not emerged unscathed. These criticisms are themselves sometimes open to criticism but they are none the less stimulating.

On many important points uncovered or insufficiently covered by authority the learned author offers his own considered views—see, e.g., his discussion of s. 568 of the Local Government Act and Illegality (30-32), the right of a vendor to rescind for fraud after the purchaser has assigned his rights to an innocent third party (100-1), legal consequences of non-disclosure (220-1) and the effect of registration on a transfer by the sheriff (459-60). Again one may not always agree but the author's originality is none the less refreshing.

On pages 90-93 are to be found some pertinent observations on the unsatisfactory position of the purchaser under a long term contract where the land is subject to a mortgage and also some helpful advice. The criticism of the current practice of making "time the essence of the contract" in respect of all conditions in the contract seems well merited (354). The discussion of the proper function and scope of "requisitions" deserves the close attention of all conveyancers (447-455), the note on *In re Ford & Hill*¹¹ (451-2) being of particular interest.

This book was ten years in preparation. This is reflected in the care and thoroughness evident from beginning to end of the work. The author's style is beyond praise. He expresses himself in language striking for its simplicity and precision. *Voumard's Sale of Land* with, it is hoped, later editions to follow, will long remain a standard work in this State on Vendor and Purchaser. Its publication is a notable event.

—A. D. G. ADAM.

1. [1937] V.L.R. 165.
2. [1931] V.L.R. 222.
3. (1882) 8 V.L.R. (E.) 254.
4. [1931] A.L.R. 356.
5. [1937] V.L.R. 40.
6. [1929] 1 Ch. 253.
7. (1891) 17 V.L.R. 686.
8. (1892) 14 A.L.T. 72.
9. (1869) 6 W.W. & a'B. (L.) 223.
10. [1938] 1 Ch. 253.
11. (1879) 10 Ch. D. 365.