

this chapter he discusses the position of voluntary equitable assignments since the Judicature Act. On this aspect, after examining the English authorities, he comes to the view, similar to that of Griffith C.J., in *Anning v. Anning*,<sup>4</sup> that the assignment will be upheld provided that the assignor has done everything which it was necessary for him to do to transfer the chose. The author has confined his attention to English authorities only. In the discussion on page 153 the author refers in passing to an imagined set of facts very similar to those in *Anning v. Anning* and a reference to this Australian case would have provided the author with valuable material. However, when the original purpose of this work is borne in mind, the need for maintaining reasonable limits on its scope probably dictated omission of Dominion authorities.

Chapter V contains an exhaustive treatment of assignments under the Judicature Act, and in the final section, Chapter VI, the assignment of choses in equity is dealt with.

The book is well arranged and clearly written. Minor flaws in it are few. On page 100 *Re Wait* is referred to as *Re Writ* and on page 124 there is reference to Lord Hardwicke deciding a case in 1682.

Although this work does not make further argument unnecessary, it is to be welcomed as illuminating one of the dark places in the law.

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<sup>4</sup> *supra*.

*Cases and Readings on Soviet Law*, by JOHN N. HAZARD and MORRIS L. WEISBERG (New York 1950. Published in mimeographed form only).

Anybody seeking information on the Soviet Russian legal system was faced until recently with a double difficulty, not only that of language, but the even more formidable one of obtaining Soviet source material. In pre-war times studies on Soviet law were undertaken at some of the Continental universities, particularly at Breslau (Institut für Ostrecht) and Lyons. However, little work in this field was done in English-speaking countries, and not even the Soviet codes were available in English translations. Since the end of the Second World War there has been a radical change in this situation. With the emergence of the U.S.S.R. as one of the world's most powerful nations and as leader of a bloc of countries opposed to the Western world, it was realized—especially in the U.S.A.—that the lack of knowledge of the Soviet legal system represented a serious handicap. And so,

with characteristic energy, the Americans organized money and men to fill the gap. As a result, a number of important publications on Soviet law have now become available in English; books such as Gsovski's *Soviet Civil Law*, the English translation of Vishinsky's *The Law of the Soviet State*, Berman's *Justice in Russia*, Schlesinger's *Soviet Legal Theory*, the latter a contribution from England.<sup>1</sup> The book under review here, *Cases and Readings on Soviet Law* by Hazard and Weisberg, is another American publication of unusual interest.

John N. Hazard, co-author of the book, is particularly well equipped for selecting and editing the material presented here. He studied Soviet law during the 1930's at Moscow University and has since his return to America been probably the chief American expert on Soviet law. He holds the chair of Public Law at Columbia University.

According to its preface, the book is an enlarged edition of an earlier collection of cases and readings on Soviet law. So far, it is available only in mimeographed form, but it is to be hoped that it will soon be brought out in print. The book contains extracts from a great variety of material on Soviet law: codes, statutes, decrees; proclamations and speeches by Soviet leaders; writings by leading theoreticians and commentators; and, in particular, judgments of Soviet courts. Where important changes have taken place in the Soviet attitude to a legal question, references relating to the various periods will be found, so as to show, and if possible, explain the change. As the book contains, in little more than 400 pages, material on numerous aspects of Soviet law, the authors often had to make difficult decisions in the selection of material. The book is designed in the first place for the use in American university courses in Soviet law. It is also used in general Comparative Law classes which are offered at many American universities. For the assistance of lecturer and student, at the end of each chapter dealing with a phase of Soviet law there is a list of references to American material on the corresponding phase in American law. The study of Soviet law is thus placed generally on a comparative basis. Its aim is to enable the student to work out for himself the respective merits and weaknesses of the different solutions found in the two systems of law. If the book is used outside America, it is easy to substitute comparative material from non-American legal systems of the Western world.

Owing to the great number of cases which are reported in some detail, the reader gains an often fascinating insight into the living

<sup>1</sup>See the article on Schlesinger's book by Prof. G. W. Paton in (1947) *Res Judicatae* 58. This book has since come out in a second edition.

law of the Soviet Union. Here are some of the points which appeared of particular interest to the reviewer:

In Soviet eyes the principle of separation of powers is a bourgeois idea and even the highest tribunal in the country—the Supreme Court of the U.S.S.R.—exercises not only judicial functions, but administrative and legislative functions as well. When new legal problems occur, or new solutions are suggested for old problems, the Supreme Court issues “guiding instructions” to the lower courts.

Furthermore, the Supreme Court makes regular “checks” of the work of the lower courts, and if a decision made by such a court is on inspection of the files found to be wrong, the case is brought before the Supreme Court “on protest of the President”. In addition, if lower courts are found to apply legal provisions wrongly, the Supreme Court may issue guiding instructions in the matter. It is well to remember that the normal court of first instance in the U.S.S.R., the People’s Court, is composed of people with very little legal training.

Many cases show how, as final court of appeal, the Supreme Court of the U.S.S.R. is concerned with cases from all fields of law—civil, criminal, labour law, etc. The first case quoted in the book is that of Comrade Musienko who did not turn up for work on Sunday, because of “fatigue”. He did this although the factory manager had, on grounds of defence needs, ordered him to attend for work. Musienko was sentenced to six months of correctional labour by the People’s Court, and when on appeal the case finally reached the full bench of the Soviet Union’s Supreme Court, the proceedings against Musienko were terminated merely on the ground that by then he had ceased to present a “social danger”. The case is interesting also for another reason. The appeal to the Supreme Court was lodged by the Prosecutor, “on behalf of the accused”. The Prosecutor’s Office is charged not only with the prosecution of criminal offences, but generally with seeing to it that the law is upheld. In this, as in some other features of Soviet law, the Soviet authorities are carrying on a Czarist tradition.

There have been fundamental changes in the Soviet view of the function of law in Soviet society. The great break occurred in the mid-1930’s, as part of the new Stalinist interpretation of Communism. In the legal world, this led to violent denunciation of the old school. For example, propounders of the theory that the Socialist sector of the economy ought to be governed by a special economic-administrative law, and not the general civil law, were referred to as “wreckers on the front of the civil law”. There are a number of vivid illustrations of the change in Soviet law since 1917. Take the divorce laws.

At first the divorce was simply an administrative measure granted at the request of one of the spouses, then gradually a number of provisions were introduced making divorces more difficult to obtain. Finally, since the Act of 1944 a divorce can only be pronounced by one of the higher courts at a public hearing. Due notice of the divorce petition has to be advertised in a newspaper. In addition, before any approach may be made to the divorce court, there must have been a fruitless attempt at reconciliation before the People's Court. Fees have been increased to such an extent as to discourage any but the most determined. As the grounds for divorce are not set out in the new law but left to the discretion of the court, the judgments in recent divorce cases quoted in the book are particularly instructive.

Then there is the revised attitude to property in a dwelling. The land itself cannot vest in a private citizen, but under the new 1948 legislation, a person may be allocated land for a private dwelling of up to five rooms. And the right to private ownership in such a dwelling is now recognized.

Other sections of particular interest are those dealing with the new organizations which constitute the major part of the whole Soviet economy and which are a distinctive feature of the Soviet system, in particular the State Industrial Trusts and the Collective Farms. Contracts are replaced by allocations under the Five-Year Plans, and disputes between two State Trusts or other public bodies come before "Gozarbitrage", an arbitration organization set up at high government level.

There are some interesting instances of advanced social outlook in the Soviet legal system. For instance, in the case of unjust enrichment under an illegal contract the court will order the enriched party to disgorge his ill-gotten profit: however, this will not be returned to the party who made the payment, but will be paid into state revenue; and this principle may even be applied in case of State Trusts.

There is also evidence of an advanced social outlook in certain parts of criminal law. But the full ruthlessness of the Soviet system of terror and suppression is meted out to all those involved in political offences, in what the Soviet system calls terrorist acts, counter-revolutionary wrecking and diversion. In those cases the Code of Criminal Procedure provides for summary court proceedings aiming at immediate extermination of any opposition or criticism. There is a still more sinister feature of the Soviet system. The great majority of victims of Soviet terror measures are by no means people convicted in a court for crimes as defined in the Criminal Code. The MVB, a

"Special Board" established at the Ministry of Internal Affairs, has the right under a special statute to apply to people declared to be "socially dangerous" up to five years' exile, banishment or internment in "correctional labour camps". No cases on these administrative proceedings at which people are declared socially dangerous are apparently published in Russia.

It is this extra-legal sphere of Soviet criminal law and criminal procedure which remains the darkest page of the whole system of Soviet law.

J. LEYSER

*The Elements of Drafting.* By E. L. PIESSE and P. MOERLIN FOX.  
(The Law Book Co. of Australasia Pty Ltd. 2nd edn., 1951) pp. xii,  
142. 14s. net.

The first and essential thing to say about this little book is that it is a most useful one indeed. The praise given to the first edition and the revised English edition can justifiably be repeated. It is a book which can be read with profit by all students and young practitioners. And it is a book which the experienced will find both interesting and, I should imagine, gainful.

The second point, a less happy one, is that the book is not as good as it should, and with some attention could, be. It nearly gets there, but at present not quite. (A stern review of the present edition in the (1951) 2 Annual Law Review (University of Western Australia) over the initials "P.B." suggests that the book is nowhere near getting "there". This is not the place to consider and answer to the book's advantage most of the charges there made. That I hope to do in a more suitable place later. Sufficient for the moment to enter a respectful caveat against anyone judging the book by that review.)

But the style simply is not as good as it should be. Let one example suffice:

"Moreover, since a draft often deals with a much greater number of relations and conditions than an inexperienced client may think necessary as a precaution against contingencies that may be remote, this, too, may displease the client."

Chapter 2, "Some Rules Relating to Deeds", which is a new chapter by the present Editor, is a useful addition, but one open to two criticisms. The opening section of it, relating to property law, is out of place in this book. And the whole chapter, wedged in among chapters of the actual technique of drafting, is out of place within the book.

The index is copious, but difficult to use. When the book is next printed, the publishers should seriously consider leaving a gap