

For anyone who thinks that a text-book should, where necessary, criticize decisions, pose arguments, and suggest answers to problems, the work will not be completely satisfying. It may be that there is still room for argument as to the proper role of the text-book, but can it now be doubted that the text-book is capable of assisting the development of legal doctrine? English courts have recognized that the text writer can be a useful *amicus curiae* as has been shown by the judicial use of works like those of Dicey and Cheshire on Private International Law. The unfavourable circumstance of too limited argument, combined with the pressure of congested court lists, imposes a heavy burden on a court which is concerned to ensure that its decision will be not only a proper disposal of the question between the parties but also a fitting accretion to the law. Assisting courts in coping with this burden is a function which the text-book can perform by full analysis and discussion of existing material and on the basis thereof by suggesting possible answers to problems. If it be accepted that the ideal text-book will attempt to render that assistance the work under review is not ideal. It may be that to expect a work which treats of every aspect of licensing law to measure up to this ideal is to expect too much. For anyone who wishes to find how courts have dealt with particular provisions of the licensing legislation the work in its present form will be most valuable.

H. A. J. FORD

*Bailment in the Common Law*, by G. W. PATON, M.A., B.C.L. of Gray's Inn, Barrister-at-Law; Vice-Chancellor of the University of Melbourne. (London, Stevens & Sons Ltd., 1952) pp. xl, 454. Australian price £5 5s.

The reception accorded to this author's *Jurisprudence* will have the result that his second book, *Bailment in the Common Law*, will reach the English-speaking legal professions with its fame already half made.

Since the subject "Bailment" is one which has a familiar sound even to those who would not claim a profound learning in the law, it is possibly worth while to draw attention to the fact that the text-book literature on this topic is very limited. There are the famous notes to *Coggs v. Bernard* in Smith's *Leading Cases*, there is Story's work, the last edition of which was published in 1863, and there are standard texts on particular branches of the law of bailment or on particular classes of contracts founded upon bailment such as Carver's *Carriage of Goods by Sea*. But there is no modern text-book of standing on the general principles of bailment.

The book now under review was no doubt written with a consciousness of the existence of this gap in English legal literature, and to the present reviewer it appears that the title of the book was chosen with a careful regard to the place the book was intended to fill. The book is not written as a practitioner's handbook on bailment to be classed with Benjamin on Sale or Leake on Contracts, solving, as near as may be, all the problems which the practitioner will encounter. On the other hand, it is not a student's book designed to fit a university syllabus. It is a scholar's book.

That the author did not intend to write a practitioner's handbook is apparent from the treatment of conditions limiting liability. These conditions are to the practitioner perhaps the most important branch of the law of bailment, because almost every action arising out of the carriage, custody, or treatment of goods is influenced by conditions of this kind. On the other hand, the learning relating to them does not constitute a large part of the general theory of bailment, and perhaps in one sense it is not part of "Bailment in the Common Law" at all.

The author deals rather briefly with conditions of this kind, giving them a prominence according to the scholar's appreciation of the subject rather than to the practitioner's. The present reviewer was at first inclined to feel disappointed in this, but the disappointment passed on a closer acquaintance with the book. What is written about these conditions sets out the principles in accordance with which they are applied and construed, but does not pass on to consider myriad instances. But that the statement of principle is not in terms which can be dismissed as academic is illustrated by the fact that the recent decision of the Supreme Court of Victoria in *Causer v. Browne* [1951] V.L.R. 1, which occasioned some surprise, is the logical consequence of the application to the facts accepted by the Court in that case of principles which are set out at p. 269 of the book under review, written before *Causer v. Browne* was decided. It is suggested, however, that it is not satisfactory to find the application of these conditions to liability for negligence discussed in three separate passages relating to different topics (pp. 180, 270 and 342), without any discussion apart from one quotation of the general principle of interpretation that where "the head of damage may be based on some ground other than that of negligence, the general principle is that the clause must be confined in its application to loss occurring through that other cause to the exclusion of loss arising through negligence" — *Alderslade v. Hendon Laundry Ltd.* [1945] K.B. 189 at 192, cited and approved in *Canada Steamship Lines Ltd. v. The King* [1952] A.C. 192 at 207.

The citation of authority is in accordance with the general aims

of the book. No attempt has been made to produce a digest of cases on bailment. The cases which are cited are those which lay down a principle or contain an apt statement of one, and those which provide useful illustrations. The author has primarily based his book upon English authorities, but he has also drawn on Australian, Canadian, and New Zealand cases.

Those who read this review may, however, feel themselves better informed by subjective comment rather than objective description of certain features of the book. Even to one for whom the delights of reading the literature of the law have lost their novelty this book is stimulating. It gains that quality through a combination of clarity of thought and clarity of expression which brings into full view difficulties which one has felt but never properly analysed and offers an intellectually satisfying explanation, solution, or comment.

The reviewer feels compelled to comment on the excellence of the printing of the book.

G. H. LUSH

*The Victorian Solicitor*, by A. HEYMANSON, K. H. GIFFORD and E. H. COGHILL (The Law Book Co. of Australasia, 1949), pp. xxiv, 227, with Second Cumulative Supplement 1952, pp. 16.

It is very late in the day to review a book published in 1949 and at the present time widely known in Victoria. It is desirable however to draw to the attention of those who are using the book the second cumulative supplement bringing the principal work up to date (to July 1952), and the occasion may be taken for some comment on the book itself as well as the supplement.

The primary purpose of the book was, as indicated in the preface, to inform Victorian solicitors of the manifold duties imposed on them by the Legal Profession Practice Act 1946 and the Rules thereunder, but its scope was extended to cover other matters in connection with the legal profession in Victoria, including the rules governing admission to practise and the rules of professional conduct recognized as being in force here.

The book consists primarily of Acts and Regulations with appropriate annotations. This mode of treatment, while complete and accurate, does not enhance readability, and the reader who wishes merely a general description of the duties of the solicitor in Victoria will be grateful for Mr. Heymansson's introduction where the position is summarized in narrative form.

When a second edition is prepared it may be hoped that another narrative chapter will be introduced covering the rules for admission