

Testator's Family Maintenance in Australia and New Zealand, by R. J. DAVERN WRIGHT. (Law Book Company of Australasia Pty. Ltd., Sydney, 1954), pp. i-xvi, 1-422. Australian price £2 17s. 6d.

As pointed out in the foreword to this work it is over fifty years since the enactment in New Zealand of the Testator's Family Maintenance Act first gave the power to the courts of that Dominion to vary, in the interests of his family, the provisions made by a testator in his will. All states and territories in Australia now have the benefit of similar legislation. The broad principle of these statutes is well known to practitioners but there has been a real need for an up-to-date text book on the subject stating the procedure to be followed where relief is sought, and providing the necessary forms, collecting and analysing the growing number of cases, and discussing any obscurities in the Acts whether or not the particular issues have yet been raised in the courts. In particular it is of first importance for the profession to be informed of the limits within which the wide discretion conferred on the courts will be exercised. The fact that there are already more than three hundred reported cases determining the operation of the Act serves to indicate the present importance of this jurisdiction. It is likely to become still more important as a result of the recent dramatic inflation which will have the effect of rendering unsatisfactory many wills which were not capricious or unjust when made.

Under these circumstances the legal profession will welcome Mr Davern Wright's contribution which goes far to meet the needs mentioned. The statutes and cases are conscientiously collected and are honestly dealt with in good clear prose, and many of the answers to questions raised in practice will be found here without difficulty. Some minor imperfections may be mentioned. Occasionally there is a slip in expression. It is not accurate to say (p. 50): "Except perhaps where the estate is very large . . . there appears to be no express warrant in the legislation for giving one [of two applicants, one of whom has been more devoted to the testator than the other] more than the other"; and a purist might object to the form: "See also *in re Saywell* (unreported)" (p. 69).

The table of cases would be more useful if references were given. Three cases are listed as *in re Brown* and another three as *in re Williams*. They can only be identified by reference to the body of the Act. The use of cross-references in the text to different treatments of the one case would be helpful and would certainly enable greater economy of treatment.

A more serious defect is the author's failure to attempt any critical analysis of the authorities on some important topics. He is often content to state the facts and conclusion in the cases *seriatim* without integration of the discussion or evaluation of the individual decisions. It is noticeable, too, that in some sections the

cases have been grouped according to the jurisdiction in which they have been decided and the casual reader may fail to appreciate that decisions other than those cited for his state may be relevant in determining the operation of the law in that state.

In the reviewer's opinion it is a matter for regret that the author did not make more suggestions for reform of the existing Acts. In his useful foreword Mr Justice McLelland did enumerate some obvious deficiencies but his list is not exhaustive. The law is not immutable and some of the defects referred to in the foreword have already been remedied for Mr Justice McLelland's own state by the enactment of the Administration of Estates Act 1954 (New South Wales). Concrete suggestions for reform, backed by an assessment of the operation of varied provisions in other jurisdictions might very well secure for each state a uniform Act compounded of the best features of all the existing Acts.

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The Principles of Modern Company Law, by L. C. B. GOWER.
(Stevens & Sons Ltd., London, 1954), pp. i-xl, 1-599. Australian price £3 3s.

Legal text books fall ordinarily into three categories: those that are in advance of their time, those that are abreast of it, and those that lag behind it. The first is now non-existent, the second virtually so; the third anything but. It is therefore refreshing to discover a work which has the merit of not falling into the first category yet avoids falling into the third.

The author is Sir Ernest Cassel Professor of Commercial Law in the University of London, and also enjoys the qualification of being a solicitor of the Supreme Court. Unless he were both it is doubtful if this book could have been written. He commands a formidable knowledge of the substantive law and matters of theory, but at the same time is able to draw upon a wealth of practical experience to great advantage when commenting upon the results achieved by the Courts and the legislature in the field of company law, as in his statement of the duties of the Secretary where he properly contrasts the important position which this officer occupies in a company with the subordinate status accorded to him by the courts. Another example is his contrast of the theoretical position whereby directors are the servants of a company with the practical position whereby the tail frequently wags the dog (Chap. 7) and is able to continue wagging it by virtue of the directors' control over proxy-voting machinery and their power to dictate their own service agreements thereby preventing their removal unless they commit a "fraud on a minority".

Professor Gower has also drawn on foreign sources for the purposes of comparison where these have seemed to him to be helpful