

Introduction to Property Law

Published by Butterworths

As Joyce Toohar and Bryan Dwyer advise in the preface, and as the title suggests, this book is an introduction to the law of property.

This is the fifth edition however, the first time that the book has adopted the practice of referring to all Australian jurisdictions and the United Kingdom. Earlier editions were directed primarily towards New South Wales and Victoria.

There are a number of improvements upon earlier editions (the writer has a copy of the third edition). The latest edition represents a substantial revision on the third edition with significant improvement in the writing style and formatting.

Chapters such as “The Doctrine of Fixtures” dealt with some issues perhaps too briefly and a case in point would be the degree of annexation test. The discussion of this topic in the current edition goes into far greater detail as to the intent and operation of this test.

The most substantially expanded chapter is that of “Easements and Profits à Prendre”. The discussion on easements is relatively comprehensive for an introductory text and is set out in a clear and straightforward manner for students. The general nature and characteristics of easements are described utilising a breadth of precedent from United Kingdom cases dating from the nineteenth century through to more recent Australian decisions. Creation, scope, construction, breach and extinguishment are then further

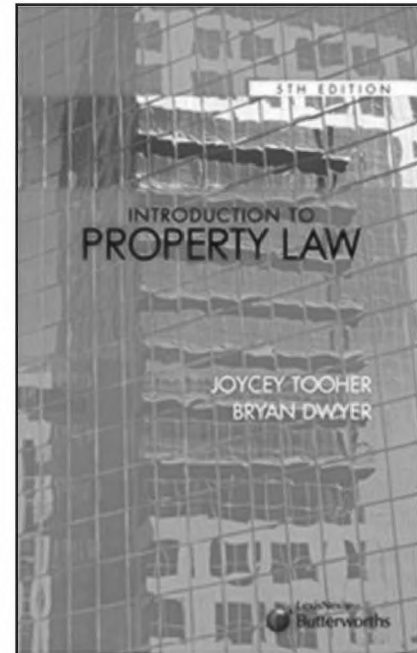
explored.

The chapter on “Tenure and Estates now includes a sub-heading on Native Title whereas the 3rd edition only had a brief explanation as part of the sub-heading, Doctrine of tenure.

The chapter on ‘Law, Equity and Priorities’ offers a solid discussion on equitable interests and equities. The discussion on cases such as *Waltons Stores (Interstate) Ltd v Maher* (1988) 164 CLR 387 and *Commonwealth of Australia v Verwayen* (1990) 170 CLR 394 are summarised and presented in a straightforward and easy to understand manner. The authors then go on to present a range of more recent cases, principally from the New South Wales Court of Appeal and the Victorian Court of Appeal.

The book is based on Victorian legislation and cases. While comparison is often drawn with New South Wales, and to a lesser extent the other States, the first reference is often Victoria. This is an observation and not a criticism. To provide a text that covered all jurisdictions equally would take it beyond the scope of an introductory text. In some instances, the Northern Territory is neglected in discussions of the vagaries of the various jurisdictions, however not to an extent that would render the book irrelevant to Territorial practitioners.

While the depth of detail is not present as you would find in a more comprehensive property law book, the sketch of the various concepts in sufficient for



Review by Anthony Jarvis

an introductory text. The book is both informative and practical.

Who should have this book on their bookshelf?

This book appears frequently as required reading for students studying business who are required to understand property law at an introductory level. For practitioners, it may prove a useful and practical first point of reference for a practitioner who only occasionally delves into property law and is not seeking a *War and Peace* text on the fine detail of the topic. ↓

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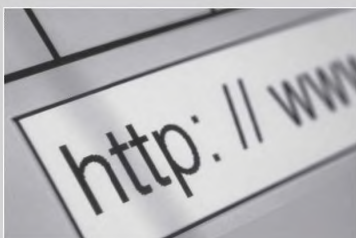
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