(common funds) not affected by the Trade Union Acts of 1871 and 1876, and the interpretation thereof in the *Taff Vale* case,[3] enjoyed immunity from suit not on any meritorious basis but because of the inadequacy of legal theory. Insofar as the demand for the immunities given by the Trade Disputes Act was based on a claim that trade unions should have the immunity enjoyed by other associations, it lacked merit. This does not exclude the possibility of other more substantial reasons for the passing of the Trade Disputes Act.

In the course of an essay containing much interesting comparative material on administrative law, Professor Sawer points to the difficulties raised by our law of persons in the area of governmental liability. For instance, if the emphasis is on adversaries the theory of the indivisibility of the Crown seems to cause difficulty. An action by the State of Victoria against the State of New South Wales appears to make nonsense of that theory. But can it not be said that when the Commonwealth Constitution impliedly authorizes such an action it is really providing that in certain litigation a court can declare that the treasury of New South Wales should be reduced and that the treasury of Victoria should be correspondingly increased? The Constitution authorizes the treatment of the treasury of New South Wales as an object-entity. The trial of the action is really an inquest over a fund, but the inquest is conducted for the most part according to the same rules as would apply if the plaintiff and defendant were human beings. The theory of the indivisibility of the Crown should create no difficulty at this level since the two funds are discrete, in the sense that they are dedicated to different purposes; one is dedicated to the good government of the territory of New South Wales, the other to the good government of the territory of Victoria. A Minister of the Crown in each State is the adversary-entity representing each fund. The theory of the indivisibility of the Crown is relevant only to the adversaries. The fact that each adversary is a delegate of a common principal should be no more embarrassing than if A, a sole permanent Nominal Defendant, is himself injured by a hit-and-run driver and seeks to recover from a government-provided fund of which he is ordinarily the guardian.

It is apparent that the lawyer's concept 'legal person' or, more aptly, 'legal entity', contains little nourishment for political scientists and philosophers. This is not intended to deny that there may be much interest for them in the reasons which prompt the legal system when it selects or rejects possible object-entities. Consideration of these reasons will involve canvassing the policy judgments of the law, the balancing of competing interests, and the special implications of human personality.

These essays, which are a stimulating example of joint scholarship, will do much to lay bare the real problems of group privilege and group responsibility.

H. A. J. FORD

An Englishman Looks at the Torrens System, by THEODORE B. F. RUOFF, Solicitor of the Supreme Court of Judicature in England. (The Law Book Company of Australasia Pty Ltd, Sydney, 1957), pp. i-ix, 1-106. Price £1 5s.

This is a collection of essays, mostly reprinted from legal journals in various parts of the British Commonwealth. The first chapter reminds us that 1958 is the centenary year of the original Torrens legislation in

[3] [1901] A.C. 426.

South Australia, and the author properly feels that a centenary of this kind may best be honoured by mingling a critical self-examination with congratulations.

Most of the essays were written before the Transfer of Land Act 1954, which amended and consolidated the Victorian law, and the author makes only slight references to it. But in some respects the legislation now conforms more closely to the principles which he emphasizes. Practitioners occupied in the details of transactions concerning land under the Torrens System can usefully regain a bird's-eye view of the system by reading a book such as this, and with its aid students can obtain such a view for the first time. Both judiciary and legislature, not to mention lesser mortals, have at times failed to appreciate fully the basic principles and two examples may be mentioned here.

The persons who were held in *Gibbs v. Messer*[1] to have no remedy against the Assurance Fund (Ruoff, pages 47-49), could probably claim in similar circumstances today: section 110. Legislation giving to statutory authorities rights of acquisition and 'first charges' has almost invariably ignored the Torrens principle that the Register Book should contain all facts material to the title (Ruoff, pages 18-22): this has been remedied to some extent by section 57, under which an acquiring authority proposing to acquire any estate or interest in land upon notice to treat, must notify the Registrar who makes an endorsement on the Certificate of Title, deemed to be an encumbrance. Experience shows that at any rate some authorities are complying with this section, but nothing is said as to what happens if they fail to do so. One hopes that the acquisition would be ineffective against a purchaser: true, the acquiring process could always be started again by the authority, but compensation would be payable as at a later date.

Chapter 8 of the book is mainly concerned with the question of 'own-your-own' flats and the various conveyancing difficulties to which they give rise. Here again, the 1954 Act (section 98) overcomes some of the difficulties, with its provisions (based on the familiar old section 212) implying easements 'necessary for the reasonable enjoyment of the relevant part of the building'. This section is mentioned by Mr Ruoff (page 13), but not in Chapter 8.

There is a discussion on page 13 of implied covenants as a means of shortening leases, and reference is made to section 66. Reference is intended presumably to section 67 which implies four 'covenants and powers' in all registered leases, whether the parties want them or not. Mr Ruoff is, however, really talking about the sort of stock clauses dealt with in section 134 of the old Act which could be incorporated by using a short phrase.[2] There is no counterpart in the 1954 Act to section 134, doubtless because leases are hardly ever registered in Victoria. In New South Wales, where there is nothing corresponding to our section 42 (2) (e) which protects the interest of a tenant in possession, leases are invariably registered and full advantage is taken of the short forms of covenant provided for in the Real Property Act of that State.

Mr Ruoff rightly castigates the extensive enquiries made by the N.S.W. Registrar before he will register a transmission (page 29). In Victoria, the position is not as bad, but even here some evidence is required. It is the more boring to the practitioner because the same process often has to be gone through with the Comptroller of Stamps as well.

[1] [1891] A.C. 248. [2] *Cf.* Landlord and Tenant Act 1928, Third Schedule.

But one's own house is not always in order. How many solicitors take any steps, when acting for a purchaser, to guard against inconsistent dealings lodged between the search and the lodging of the transfer? In Victoria, says Mr Ruoff (page 26), no one ever stays registration under section 93. The reason is that the forty-eight hours' stay available is ordinarily insufficient, but one can lodge a caveat and follow it with a final search.

The articles reprinted in this book can be re-read with profit.

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Bureaucracy in New Zealand, edited by R. S. MILNE, M.A. (New Zealand Institute of Public Administration, Wellington; Oxford University Press, London, 1957), pp. 1-137. Price £1.

The papers delivered and discussed at the annual conventions of the New Zealand Institute of Public Administration have been published each year since 1953. *Bureaucracy in New Zealand* is the fifth volume in the series. It comprises papers dealing with diverse aspects of administrative procedure and law in New Zealand presented by the then Attorney-General of New Zealand, a senior civil servant, the head of an administrative agency, a lawyer, a political scientist and 'a private citizen' (who turns out to be a solicitor and an Oxford M.A.!). A brief résumé of discussion is appended to each essay. Doubtless the publishers were forced to conserve space as much as possible in order to produce the book at its modest price of one pound, but it is to be regretted that the discussion and replies have been abbreviated in some cases to the point of incomprehensibility.

Lawyers will find much of interest in the papers concerned with administrative machinery and the checks and balances imposed upon executive action within the governmental machine. The population of New Zealand is roughly the same as of Victoria, and Victorians interested in the problems of government in a small State will find these papers valuable.

However, of more immediate interest to the profession is the discussion of legal controls of administrative authorities by R. B. Cooke in a paper entitled 'The Rights of Citizens' (pages 85 ff.). After comparing the readiness of the New Zealand Supreme Court under Myers C.J. (1929-46) to use the prerogative writs and other means to check excesses in the use of administrative discretionary powers with its reluctance to do so since the war, Cooke considers in relation to New Zealand's experience and needs the hardy annual whether a superior administrative tribunal is desirable to co-ordinate appeals from existing specialist tribunals, and to hear appeals on matters which are at present beyond the reach of the courts. Dating the paralysis of English courts in the field of administrative control at *Liversidge v. Sir John Anderson*[1] in 1942, he attributes it to a carry-over into peace time of the tendency of the courts in time of total war to concede 'to the executive discretionary powers of the greatest amplitude' (page 97). 'There can be little doubt that, in respect of administrative law, habits of judicial thought engendered in time of war survived into the post-war years. . . . It seems a fair deduction that after the war the English judges, studious of impartiality and anxious

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[1] [1942] A.C. 206.