

reviewer the availability of *Sykes* is a boon. There is a great debate over case-books and case methods; and there are various ways of putting a case-book to use. For me, anyway, *Sykes* has furnished the means of teaching a course in the Australian conflict of laws which is tougher, deeper and, so far as I can judge after fairly long experience, appreciably better. For this I am profoundly grateful.

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*The Law of Real Property in New South Wales*, by B. A. HELMORE, PH.D. (Lond.), LL.B. (Lond.). 1st ed. (Law Book Co. of Australasia Pty Ltd, Sydney, 1961), pp. iii-xlix, 1-601. Price £5 5s.

The law of real property of the state of New South Wales combines the foundation of the rules of English common law and equity introduced in the early days of settlement and a formidable superstructure of statutory law which has often diverged from English developments. To give an account of this law is a major task, but the practitioners of New South Wales have for many years had the assistance of *Millard's Law of Real Property in New South Wales*, of which Dr Helmore has in recent years been the editor. Now Dr Helmore has prepared a new treatise on the subject, intended to replace the earlier work which in Dr Helmore's view has outlived its usefulness. Only the chapters on those esoteric creations of statute, tenures of Crown lands and interests under the Mining Act, are taken substantially from Millard.

This new work will be a most welcome companion to the conveyancer and property lawyer of New South Wales. It sets out clearly the basic rules of common law and equity which have developed in the various fields of real property law. It then gathers and summarizes the multifarious provisions of statutes which operate in these fields. The latter task, in view of such statutes as the Real Property Act 1900, the basis of the Torrens System of registration of title, the Conveyancing Act, 1919 and the Registration of Deeds Act, 1897, is a task of a magnitude equal to that of stating the underlying common law and equitable principles. The relevant case law is gathered, mainly by way of footnotes, and the present areas of uncertainty are pointed out and discussed. An additional assistance to the practitioner is provided by reference to the practice of the Registrar-General in areas where this is relevant.

The very magnitude of the task attempted by this work has of necessity led to a compressed statement and discussion of principle in many areas of difficulty. As the work is offered to students as well as practitioners, it should be observed that in such areas there appears to be insufficient exposition and discussion of examples for the purposes of a satisfactory students' text. For example, the rule against perpetuities occupies only eight pages of discussion in the text, with which may be compared the three hundred and twenty-seven pages of Morris and Leach upon the rule.<sup>1</sup> Such areas of notorious student difficulty as the effects of the operation of the rule upon legal contingent remainders or special powers of appointment seem to require a fuller exposition.

Again Dr Helmore keeps his discussion of the feudal background and historical development of real property law to a minimum. His main purpose of stating the present law makes this necessary. But for an en-

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<sup>1</sup> Morris and Leach, *The Rule Against Perpetuities* (1956).

quiring student who wishes to know how and why the doctrine of estates or of seisin came to exist in the form each took in nineteenth century English law, supplementary reading of some such text as Simpson's *An Introduction to the History of the Land Law*<sup>2</sup> must be added to Dr Helmore's treatise.

The Victorian practitioner must use Dr Helmore's work with considerable care, for the statutory provisions of Victoria and New South Wales often diverge, for example, the different provisions of section 16 (1) of the Conveyancing Act 1919 (N.S.W.) and section 192 of the Property Law Act 1958 (Vic.) and the existence in New South Wales of section 44 (2) of the Conveyancing Act 1919 which provides that every limitation which might be made by way of use under the Statute of Uses may now be made by direct conveyance without the intervention of uses. However the work will be of considerable use to a Victorian lawyer in tracing the modifications made to English law by the New South Wales Legislature between the time of its introduction to Australia and the establishment of the State of Victoria in 1850 when Victoria took its common and statute law in this modified form.<sup>3</sup>

The chapters dealing with future interests might be more conveniently placed immediately after those dealing with the freehold estates rather than separated by the chapters dealing with Leasehold Estates, Mortgages, Charges and Liens, Rent Charges, Easements, Profits, Covenants and Licences.

Small criticisms are no doubt easy to make in a work of such magnitude, but in the treatment, on page 252, note [9] and on pages 278-279, of section 22 of the Married Women's Property Act, 1901, dealing with summary jurisdiction in disputes between husband and wife as to title or to possession of property, reference might more appropriately be made to the strict law approach laid down by such cases as *Wirth v. Wirth*,<sup>4</sup> *Noack v. Noack*<sup>5</sup> and *Pearson v. Pearson*,<sup>6</sup> rather than the wide discretionary approach of the cases in fact mentioned, *Rimmer v. Rimmer*<sup>7</sup> and *Wood v. Wood*.<sup>8</sup>

Again in relation to the requirements of formal words of limitation for the creation of equitable estates, it may be noted that the decision of Roper J. in *Caroll v. Chew*,<sup>9</sup> referred to on page 296 of the text, to the effect that, even before the enactment of section 47 of the Conveyancing Act, 1919, formal words of limitation were not required for the creation of an equitable estate in fee simple in lands under the Real Property Act, was not followed by Dean J. in *Re Austin's Settlement*.<sup>10</sup>

Small criticisms aside, Dr Helmore's work appears to be a work of major importance to the real property lawyer of New South Wales and he is to be congratulated on his contribution to this field.

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*The Law of Torts*, by JOHN G. FLEMING, D.C.L. 2nd ed. (The Law Book Co. of Australasia Pty Ltd, Sydney, 1961), pp. i-xlv, 1-720. Price £4 15s.

Professor Fleming's *The Law of Torts*, was first published in 1957 and was reviewed in detail in earlier pages of this Review. That it has been found

<sup>2</sup> A. W. B. Simpson, *An Introduction to the History of the Land Law* (1961).

<sup>3</sup> 13 & 14 Vict. c. 59, s. 25. <sup>4</sup> (1956) 30 *Australian Law Journal* 586.

<sup>5</sup> [1959] V.R. 137. <sup>6</sup> [1961] V.R. 693. <sup>7</sup> [1953] 1 Q.B. 63.

<sup>8</sup> [1956] V.L.R. 478. <sup>9</sup> (1947) 47 S.R. (N.S.W.) 229. <sup>10</sup> [1960] V.R. 532.

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