

Equitable Remedies, Injunctions and Specific Performance, by I. C. F. SPRY, LL.D. (The Law Book Company Ltd, Australia, 1971), pp. i-xlii, 1-603. Australian Price \$14.00.

Dr Spry's book, which earned him his Doctorate of Laws, sets out to analyse injunctive relief and specific performance. As such, it fills a long felt need for it is many years since the last edition of what have been the standard text books in this field were last published. *Fry on Specific Performance* is fifty years out of date and *Kerr on Injunctions* is only a decade less. The vast body of case law that has developed in that half century attests the need for Dr Spry's work.

The book is, as one would expect the work of Dr Spry to be, a careful analysis of cases and principles clearly and lucidly expounded. It presents a neat blending of history and practicability although, from the practitioner's viewpoint, it may be said to raise questions that it does not answer. The practitioner, for example, may find the final paragraph of the book (which concludes the analysis of property rights enforced by injunction) to be somewhat cryptic, the author saying of an agreement that

if it does not become specifically enforceable, it may be that on the one hand, as a matter of intention, the parties are shown to have intended that the transferee should be beneficially entitled to the material property only if, for example, the remainder of the agreement is performed *in specie*; or else it may appear on the other hand that the transferee is intended to take that property beneficially in any case, that is, whether or not the remainder of the agreement is performed *in specie*, although here a further difficulty may arise if it is subsequently sought to rescind the agreement either at law or in equity. (p. 571)

One of the problems which Dr Spry has had to face is that, with the growing use of injunctive relief and its application to a widening range of activities, he has necessarily been drawn into a consideration of aspects of law wider than the title of the book would suggest. Thus, for example, he has almost inevitably had to consider aspects of the law of defamation because of the important question as to whether injunctive relief is available to restrain a publication of threatened defamatory material or the repetition of defamatory material already published. At the same time, he has no doubt borne in mind that matters of this nature arise more by way of side wind than as a development of the main theme. The result is a lack of depth in the consideration of these aspects. Thus, Dr Spry affirms the proposition that

it was soon accepted that a common law injunction would be awarded, in an appropriate case, to restrain the publication of a libel or slander (p. 299)

(his qualification on that proposition is not relevant to the present comment). Although three authorities are cited, there is no reference to the more current authorities. It is true that Dr Spry does use the words 'in an appropriate case' to qualify his proposition, but it may be questioned as to whether this gives sufficient guidance to the practitioner that there is recent authority for the view that an injunction will not lie to restrain the publication of a libel or slander after a plea of justification. That an injunction will not lie after such a plea has been firmly stated in *Thomson v. Times Newspapers Ltd.*¹

In his consideration of the use of the injunction to restrain breach of the criminal law (a use of this equitable remedy which has been considerably strengthened by the decisions in *Attorney-General v. Harris*,² and *Cooney v. Ku-ring-gai Municipal Council*³) Dr Spry instances the various matters which the court will take into account in determining whether or not to grant the remedy but he does not consider the extent to which the likelihood of repetition of the illegal act is a factor in determining the exercise of the discretion—an issue on which he

¹ [1969] 1 W.L.R. 1236, 1240 per Salmon, L.J. See also *Fraser v. Evans* [1969] 1 Q.B. 349.

² [1961] 1 Q.B. 74.

³ (1963) 114 C.L.R. 582.