

Review of Adrian Bradbrook, Susan MacCallum and Anthony Moore, *Australian Real Property Law*, Sydney: Law Book Company Ltd, 1991. pp v-lxx; 1-800.

\$89.00 softcover \$125.00 hardcover

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Australian Real Property Law is an entirely new textbook which seeks to supplant the traditional reliance on English texts such as Megarry and Wade, *The Law of Real Property*,¹ by providing a wholly Australian text. The major features of the law of real property in all the Australian states are discussed, although for reasons of space, legislation relating to the Australian Capital Territory and the Northern Territory has been excluded.

As is customary, the text is aimed at both students and practitioners, but it is with the first group that this review is particularly concerned. Most students will only buy a text if it is the recommended course book and even that may not be persuasive if they can beg, borrow or otherwise come by a copy. Texts perceived as hard-going or unhelpful will be sold second-hand the following year, depriving authors of new sales.

What then do students look for in a particular text? In general the qualities most highly regarded may be summarised as comprehensiveness, intelligibility, accessibility, reasonable cost, durability and, less obviously perhaps, portability. Texts which act as a guide by giving a broad general overview are preferred to those offering a theoretical discussion of the finer points of law.

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1. R Megarry and H W R Wade *The Law of Real Property* 5th edn (London: Stevens, 1984).

Bearing these points in mind, how successful as a student text is *Australian Real Property Law* likely to be? Certainly the book's coverage of Australian law is good news for Western Australian students and others who until now have had to rely on juggling a number of texts such as Butt's *Land Law*,² which is comprehensive but based on New South Wales real property law, supplemented by Sackville and Neave's *Property Law: Cases and Materials*,³ brief outlines such as Teh and Dwyer's *Introduction to Property Law*⁴ and the English texts. Now, for the first time in one book all the traditional categories of Australian real property law have been covered and, in addition, brief outlines of more recent developments such as retail tenancies and retirement villages have been included.

A strong opening chapter sets the law in context for students by drawing attention to the social role and development of property law in Australia. The following 18 chapters cover the broad areas of title and transfers, the division of property rights, and the definition and adjustment of rights between landowners. The two concluding chapters examine mortgages and Crown leases. The coverage afforded to the Torrens system is admirably clear although perhaps too brief for students whose coursework invariably concentrates on this area. All in all the text scores highly as a comprehensive survey of Australian real property law.

However, comprehensive coverage is not enough on its own to guarantee enthusiastic sales. As any law student will tell you, there are plenty of legal texts still in existence that make concrete appear digestible by comparison. A check of any law library will reveal that it is not uncommon to find books the size of a hefty doorstep containing pages of tiny print without a single paragraph and sentences of 40 words and more. A particular horror was the trend, now thankfully in decline, of posing questions in the text. Since most students read texts in order to gain a basic understanding of the subject in the shortest possible time, it was considered unnecessarily off-putting to have to stop and try to work out answers when the book had been purchased at no inconsiderable expense to provide them.

Fortunately for students of real property law, Bradbrook, MacCallum and Moore use plain English and write concise sentences. For the first time this writer understood the rule against perpetuities. Chapters do not consist of

2. P Butt *Land Law* 2nd edn (Sydney: Law Book Company, 1988).

3. M A Neave, C J Rossiter and M A Stone *Sackville and Neave's Property Law Cases and Materials* 4th edn (Sydney: Butterworths, 1988).

4. G Teh and B Dwyer *Introduction to Property Law* (Sydney: Butterworths, 1988).

unrelieved slabs of text but are clearly signposted with headings, subheadings and effective paragraphing. One particularly useful device is a "Recent Cases" sub-heading which summarises recent developments in the area under discussion. Extra points are awarded too for the inclusion of a Select Bibliography and a comprehensive "Words and Phrases" section in the Index.

There is even a helpful diagram on the assignment of leases. Could this be a first tentative step towards using pictorial information to aid understanding of legal processes? Although traditionalists might blanch in horror at the thought, this is likely to occur sooner or, more probably, later. One reason for this is that students are now entering law courses directly from school. In recent times there has been concern expressed at students' ability to cope even with school texts. Given that law students generally are amongst the most able of their peer group, there still exists a large gap between a Year 12 text and the law texts on offer in law schools around the country. It seems inevitable that some changes to text presentation will be made and maybe diagrams, if not actual pictures, will become increasingly acceptable as learning tools.

Another point worth considering is that many students, especially those embarking on law courses straight from school, have little in the way of practical life experience. As a result, concepts which might be glaringly obvious to both author and practitioner might not be so obvious to the student reader. To give a simple example, *Australian Real Property Law* gives a clear discussion of the types of co-ownership but does not state that most couples purchasing land will hold as joint tenants. Clearly this is implied, but inexperienced students concerned about remembering "the four unities" may miss the obvious. No doubt publishers must appeal to the broadest market possible, but it may be that the time is coming when the needs of student readers must be identified and separated from those of practitioners.

As to the final qualities that constitute a popular student text, there is an interesting connection between the price of a book and its portability. A student paying an outrageous price for a textbook (and all law texts are outrageously priced) does not want it to go missing. These days alas, owing to a lack of university funding (no lockers), poverty amongst the student body and a general decline in moral standards, chances are that textbooks left lying around a law school will disappear. As a consequence, books must be constantly carried by their owners. This is easier said than done when the average weight of a soft-cover text is around 1.3 kilograms and a student may have three or more in hand. However, Bradbrook et al, managed to score good

marks in this area too. The publisher's blurb describes the 800 page book as "succinct", something only a law text could get away with, although given the scope of real property law and the differences between the States this is probably an accurate description. In fact, *Australian Real Property Law* in its soft-cover incarnation weighs in at a below-average 1.2 kilograms.

The results of a test drive were also promising. Three weeks of being forced into an overburdened attaché case and carried hither and thither, a number of attempts to crease the spine to prevent automatic closure and a close inspection on buses, in Guild restaurants and on sofas with the family dog sprawled across, appropriately, the chapter on fixtures, failed to reduce the book to its component parts. Durability is an important quality: one well-known real property text used to be renowned for collapsing spectacularly when opened by unwary students - an expensive and frustrating experience.

In conclusion, *Australian Real Property Law* represents a genuinely useful text for students with many attractive features. Its particular strength is that it provides an Australian guide to real property law with commendable clarity, in an easy-to-follow format. An added bonus for student readers is its ability to withstand the rigours of student life.