

'learned' periodicals and it is the more valuable to have them here. In a class of its own is Sir Kenneth Bailey's elegant and interesting account of the issues discussed at the 1958 Conference on the Law of the Sea and of the likely effect upon Australia of the draft Conventions which it produced. Here we have an eye-witness account of the creation of rules of International Law, often by compromise in the midst of a mass of conflicting interests, with the implication that it is only when States feel that a law will not affect their own vital interests that International Law can be created, or when created, enforced.

It would be invidious for the reviewer to select only some of the contributions for individual criticism, praise or blame. He can say, however, that in nearly all cases the authors make their points clearly and seem to have succeeded in doing what they set out to do. As a collection of individual statements, some of very high quality, of Australia's attitude towards International Law, or the effect upon Australia's own Constitutional Law of the demands or rules of International Law, the book should be on the shelves of every library, and should be frequently referred to.

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Real Estate Agency in Victoria, by HADDON STOREY, LL.M. (Butterworth & Co. (Australia) Ltd, 1967), pp. 1-404 (inclusive of Preface, Table of Contents, Statutes and Cases and Index). Price \$12.50.

What do lawyers in active practice look for in a text-book? Many would answer that it should provide statements of principles which are as definitive as they reasonably can be. Others might say that it is important that areas of uncertainty should be discussed, and doubtful aspects and matters of controversy should be pointed out and weighed. Still again, it could be suggested that what is needed is a comprehensive collection of authorities; such a collection being, of course, organized systematically. Yet another practitioner will demand that all the original legislation and relevant regulations on the subject be collected, together with 'plenty of forms'.

Because requirements such as these present aspects which are frequently inharmonious, if not actually contradictory, it is rare to find a text-book combining successfully various functions such as those enumerated. While Mr Haddon Storey has not achieved a perfect result, he appears to have furnished the legal profession in Victoria with a text-book which provides excellently for many of the needs of those concerned with the law relating to particular aspects of the business of a real estate agent.

The form of this work is uncommon in that it consists of a text of some 180 pages together with an annotation of the Estate Agents Act 1958 and the Estate Agents Committee Rules 1964. In addition, the Estate Agents Licensing and General Regulations 1963 (as amended) are set out. Extracts from the Sale of Land Act 1962; the Local Government Act 1958; the Crimes Act 1958 and the Commonwealth Secret Commissions Act 1905 have been included in appendices.

On the whole the experiment with the book's arrangement seems to have been successful. Of course, with a practice book such as this the proper gauge of how well the difficulties have been surmounted is not to be found in any single reading, albeit for review purposes. A true appraisal

of its worth, as a tool for the practising lawyer can be made only by assessment of its value in day to day use.

The dissertational portion of the work does not deal with the law of agency as a whole. And this is indicated by the author in his preface.

This work does not purport to deal with the whole of the law relating to agency, but only with those parts of it in which there are special problems arising out of the real estate agency relationship. In the selection of these parts the guide lines have been the extent of authority on the particular subject and the frequency with which these problems are encountered in practice.

Some subjects, such as the agent's right to remuneration and, to a lesser extent, the authority of an agent to sell together with his duties to act in his principal's interests and to account for moneys received, are dealt with in as full and satisfactory manner as one could wish for. However, even with the author's warning, it is still a little disappointing to find that other topics are dealt with much less extensively and in a fashion which could scarcely be of great assistance to a lawyer faced with a problem.

It is true that Mr Storey has said that his book has been designed to be useful to both estate agents and lawyers and undoubtedly it is because of this that very brief outlines are given of various topics concerning sundry aspects of the law of agency.

It is perhaps a little unfair to complain, in view of the author's intentions, that not all of the book is as thorough and helpful in expounding principle, discussing difficulties and extensively citing Australian authorities as the section on the right to remuneration. However, both those who have known Mr Storey for his thoroughness and learning and those to whom the same qualities have been exhibited for the first time in this rather tantalizing fashion will hope for an expansion of other sections of this book in the future.

The chapter dealing with the liabilities of an agent is less than a complete exposition of this area and here, one would not be confident in consulting Mr. Storey's book alone. Thus, there is little discussion¹ of problems relating to the undisclosed principal and to see the extent of the matters requiring consideration in this area one has only to look at the disquisition in Dr Powell's book.²

Further, there is no reference to be found to the situation dealt with in *Basma v. Weekes*³ and *Davies v. Sweet*⁴ concerning contracts required to be evidenced in writing where the agent has signed his own name. Nor is mention made of the situation in which an agent contracts for himself although purporting to act for a named principal.⁵

It has been some twenty-six years between the publication of Mr Storey's work and the appearance of the second edition of Dean's *Estate Agents and Auctioneers*. It is interesting to note that when that edition of Dean (it was by Mr R. M. Eggleston—now Mr Justice Eggleston) was published it was felt necessary to insert *addenda* because of the House of

¹ Some references are to be found at pp. 178 and 180. Further mention appears at p. 195.

² *The Law of Agency* (2nd ed. 1961), pp. 151 ff.

³ [1950] A.C. 441 (P.C.).

⁴ [1962] 2 Q.B. 300.

⁵ Save for an oblique hint at p. 178 and reference at p. 177 to *Jenkins v. Hutchinson* (1849) 13 Q.B. 744.

Lords' decision in *Luxor (Eastbourne) Ltd. v. Cooper*.⁶ Similarly Mr Storey has caused the insertion of a sheet with certain *addenda* due to the decision in *Leonard v. Chris Doyle & Son*, a decision of the Full Court of the Supreme Court of Victoria.⁷ This coincidence is by no means the end of the similarities between the two books. From its title it can be seen that the earlier work was intended to be and was in fact much broader in scope. On the other hand there was little extended discussion of matters of difficulty.

If one compares the Tables of Contents it will at once be seen that many aspects of the law with which estate agents might be expected to concern themselves find a place in Dean but are omitted entirely from Mr Storey's book. In particular, the work under review virtually ignores aspects of an estate agent's business which do not relate to the sale of land. Further, certain important features concerning the sale of the land are not dealt with.⁸

The most significant omission is in not referring to landlord and tenant situations. Such matters form a large part of the business of many real estate agencies. It is clear that there must be some limits to what can be included, but the choice of the additional statutes set out in the appendices to Mr Storey's book was limited to these four acts. Clearly there are many more statutes with which an estate agent will be concerned, including not only portions of the Landlord and Tenant Act 1958 but also the Transfer of Land Act 1958 and the Property Law Act 1958 as well as many other acts with which an agent with a business in the country would expect to come into contact.

The annotation of the Estate Agents Act 1958 is very thorough and appears to be comprehensive so far as Victorian decisions are concerned. However, there has been little attempt to refer to similar or comparable sections in legislation elsewhere although many of the relevant decisions in other jurisdictions are referred to. Particularly helpful are the annotations in relation to those difficult and important sections, sections 33, 34 and 34A.

Although reference is made in the annotation to Rule 6 of the Estate Agents Committee Rules 1964 to the requirement to use in the case of a printed contract (*inter alia*) the standard form approved by the Council of the Law Institute of Victoria, this form is not set out and it is a pity that permission was not obtained to reprint it.

The index is quite extensive and generally helpful, although one could wish for greater duplication of references under the different possible heads instead of, what appears for the most part to have been done, limitation upon duplication of references.

This new departure from the ordinary scheme of the various annotated Acts which Butterworths have published in Victoria in recent years is, despite the reservations that have been expressed, most welcome.

It can be predicted with some confidence that all those whose practice brings them into contact with problems relating to real estate agents will find this book of great value.

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⁶ [1941] A.C. 108.

⁷ Delivered 8th December, 1966. Unreported at the time of writing.

⁸ E.g. Stratum titles and 'own-your-own' flat schemes.

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Victorian County Court Reports, edited by M. C. KIMM (Butterworth & Co. (Australia) Ltd, 1966), pp. 96. Price \$5.25.

Over the years, more than one notable judge has commented upon the necessity for uniformity of legal decision. After all, the principle of *stare decisis* is basic to the whole system of English law. Insofar as *The County Court Reports* seek to achieve such uniformity, their object is to be commended.

The County Court, or its criminal counterpart the Court of General Sessions, being as it were the 'middle court' in our hierarchy, plays an important part in the processes of litigation in this State and, indeed, is the final and, sometimes, conclusive arbiter in matters of important public interest (e.g. maintenance appeals, General Sessions appeals, appeals pursuant to the National Service Acts, appeals under the Labour and Industry Act and so on).

If, by the reports of their decisions, the County Court judges are to be assisted in achieving a greater degree of uniformity in jurisdictions such as those mentioned in the preceding paragraph, then it can be predicted perhaps with some confidence, that practitioners will welcome this publication and come to regard it as a useful and reliable guide in the conduct of future litigation.

Whilst, however, the prospective merits of these reports can be readily appreciated, it must also be realized that their sphere of usefulness is somewhat confined. The reported decisions of one County Court judge, for instance, will not create precedents binding upon his brother judges nor, indeed, can such decisions bind Courts of Petty Sessions. Furthermore, even in those jurisdictions where the decision of the County Court judge (or Chairman of General Sessions) is deemed to be final and conclusive, nevertheless he is still subject to the control of superior courts on questions of law (e.g. by way of case stated to the Supreme Court or by appeal to the High Court).

In view of the fact that this publication is still in the stages of infancy, it is difficult for the reviewer to give an accurate assessment of its value as a practitioner's digest. It is to be hoped that with the passage of time these reports will bring an ostensible degree of uniformity to those jurisdictions in which the County Court is to a large extent supreme. Whether or not the practitioner, having weighed the merits of the publication against its limitations, will conclude that it constitutes a worthwhile addition to his library is still, it would seem, within the realms of speculation.

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