

Book Review

AUSTRALIAN REAL PROPERTY LAW

by Adrian J Bradbrook, Susan V McCallum
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The Law Book Company Limited 1991, 800 pages.

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Australian real property law though based on British law is effected by a myriad of statutes and authorities which prescribe subtle variations between each state jurisdiction. As a result it is with considerable respect for the fortitude and application of the authors that one approaches a review of the recently published 'Australian Real Property Law'. The preface reveals the authors as intending:

to provide a succinct but comprehensive account of Australian real property law. Over the past 15 years there have been numerous text books published in Australia on a wide variety of mainstream legal subjects. The stage has now been reached where Australian textbooks have largely supplanted the traditional reliance placed by legal practitioners and law students on English text books. One area where this has not occurred is real property law, where extensive use is still made of text books such as Megarry and Wade, *The Law of Real Property* and Cheshire and Burn, *The Modern Law of Real Property*. These texts have also had to be used with caution because of some basic differences between real property law in the two countries. Ever increasing differences enhance the need for a purely Australian book on real property law.

Certainly the treatment of the topics dealt with by the text is succinct with the text written in an easy to read style distinct from the sometimes turgid prose of many legal tomes. It is satisfying to be able to refer to a text that does not constantly refer to English statutes and doctrines of little relevance to Australian law. Often the task of an Australian reader in using English land law texts is to differentiate those parts of the book which deals with exclusively English law while endeavouring to sift out the morsels of applicable law.

Perhaps the most evident feature of the work is the treatment of topics often assigned to more specialised texts such as Aboriginal Land Rights (Chapter 1), Retirement Villages (Chapter 13) and Time Sharing (Chapter 13).

These topics are not the stuff of traditional law texts which have tended to emphasize broader areas of interest with emphasis on historical aspects of the development of land law. The deletion of much historical detail, an interesting part of traditional texts on land law is not of major concern as that material can be sourced from the more familiar texts which will continue to occupy hallowed niches in our bookcases. In a book that attempts to cover all 8 jurisdictions such an emphasis is understandable and probably necessary.

As a teaching tool the book can be deemed a success as it gives a student a good grounding in basic principles important in undergraduate studies while providing a helpful up-to-date edition for a practitioners library.

If there is any room for criticism it is perhaps the too brief account of the Torrens System. This may be a function of the breadth of the topics sought to be covered, however, as this is in most parts of Australia the dominant form of ownership (and in Queensland now virtually the only freehold form of ownership) a more complete discussion of the area could be advantageous. From the stand-point of a Queensland teacher and practitioner further reference to more localised text would be necessary to ensure coverage of the local law. An example of this is the non treatment of an important area of law and a number of recent cases dealing with the protection of options in registered leases such as *Re Davies*,¹ and *Re de Jersey*.² To deal with those issues would provide a more complete discussion of the Torrens System for a Queensland user. Perhaps this aspect can be dealt with in subsequent editions.

In general the text book is a success in the objective it sought to achieve and will be a useful teaching tool as well as a worthy addition to a professional library.

1 [1989] 1 QdR 48.

2 [1989] 1 QdR 133.