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Book Reviews

LEARNING THE LAW

by Glanville Williams

(Eleventh edition 1982

London: Stevens & Sons)

The fact that this 'Guide Philosopher and Friend' is now in its eleventh edition and should see out the fortieth anniversary of its publication perhaps renders a review superfluous. The market - not just the legal profession and not just those intending lawyers initiated into the mysteries of the law - clearly demonstrates a continuing demand for the material embodied in this text. However, it is right to give credit where credit is due. It is not a text depending for its success merely on the substantive knowledge it provides but, more importantly, on both the procedural guidance *e.g.* where to find the law - which even seasoned lawyers may ruefully admit they can learn something from - and how to tackle examination questions etc., and on the sound sense evident in so many sections. It must be one of the rare occasions on which a *prima facie* specialist book can be usefully read by a very wide market without the reader feeling it is too simple, cluttered, intimidating or patronising.

The structure of the latest edition substantially follows that of the prior edition. An examination of the 'list of contents' appears to suggest a number of substantial changes, but in the main, these are merely new titles for material included in the prior edition *e.g.* the heading in chapter 3 entitled 'Statutory Instruments' which in fact includes material which in the earlier edition appears under the heading 'Statutes'. Some new section titles add a welcome emphasis to material hitherto possibly hidden in the text *e.g.* "First Read The Paper" in the chapter on examinations, and "Handwriting & orthography" in the chapter on answering book work questions. There are some additions: the early emphasis on the distinction between "Substantive and Adjectival Law" of Pleadings in the tenth edition; Judicial Law-making (chapter 6); and Presumptions (chapter 7). Other new section titles reflect changes in thinking between the two editions *e.g.* "The Context Rule" section in the chapter on "The Interpretation of Statutes".

It remains a text to be highly recommended to all whose work or study involves some legal element.

Susan M. Hungerford

THE LAW OF INTERNATIONAL TRADE

by Mark S.W. Hoyle

(The Laureate Press, £9.95)

Chapter One of *The Law of International Trade* comes as a considerable relief to those of us approaching the subject with little more than a basic knowledge

of some of the legal concepts and institutions of the City of London peculiar to International Trade. The General Introduction lowers the reader gently into the detail of Sale of Goods on an international level via the importance of exports and the assistance given to them by the public sector through the Export Credits Guarantee Department and the role of the commercial banks for the private sector.

The third chapter goes on to deal specifically with the finance of international sales with the operation of documentary credits and bills of exchange clearly explained and illustrated with the aid of examples and diagrams. The declining significance of bills of exchange is reflected in the space devoted to this topic by the author and the emphasis placed on the documentary credit system and the parties usually involved in such transactions. The remaining chapters of the book deal with the various forms of carriage of goods, including the risks common to all forms of carriage and those peculiar to specific methods; the workings of marine insurance and the complications introduced when the law of other jurisdictions is involved. In the chapter relating to the latter the processes of determining whether the Court has jurisdiction to hear a case and the proper law of the contract being lucidly explained for those unfamiliar with the appropriate conflict of law rules.

The vital importance of arbitration as a means of settling disputes arising out of international contracts is the subject of chapter seven. The coverage includes the procedures for the ultimate enforcement of arbitration awards through the ordinary courts.

The increasing incidence of unscrupulous or even dishonest trading practices at the expense of the honest trader is considered in an interesting chapter on international trade frauds. The author outlines six of the most typical frauds together with the most effective means of prevention. In some of the cases suggestions as to how the existing prevention measures may be improved are included.

The Law of International Trade struck this reviewer as a most versatile book. The author has succeeded in producing a book which is suited both to the law student facing an examination in international trade and the non-lawyer seeking an insight into some or all the topics covered. It is unusual to find a legal text book which is intelligible to the layman but this book achieves it. This is no doubt partly due to the clarity of the layout, with footnotes largely confined to case and statute references, together with the effective use of examples. In this respect the author has succumbed to the demand for the fashionable but none the less worthwhile inclusion of fictitious cases which appear in the appendix.

The best of books will be of little use to the reader who has no interest in the subject. The most notable feature of *The Law of International Trade* is, then, perhaps, the author's knack of developing the readers interest by setting the scene of each topic with a brief historical perspective. The rules are not presented dryly but are shown to be necessary as a response to the problems of trading.

The impression the book gives is that of a fresh look at what is, after all, a collection of separate but

related legal disciplines. Some of which have been around for a long time. *The Law of International Trade* is not just yet another periodic review of the developments in these branches of the law but is a comprehensive but practical handbook for the student or businessman. Its price brings it within the reach of the former, which is more than can be said for some of this book's main rivals.

M. Houghton

A CASEBOOK ON CONTRACT

by J.C. Smith and
the late J.A.C. Thomas
(Sweet & Maxwell 1982)

Smith and Thomas, now in its seventh edition, continues to be one of the most useful casebooks for the law student, combining as it does, a thoughtful selection of extracts from cases, articles, textbooks and committee reports, with questions designed to foster both analytical and evaluative skills.

The new edition has undergone some important changes in arrangement of materials, particularly in Part I, dealing with formation of contracts. The previously extensive chapter on offer and acceptance is now devoted merely to the distinction between unilateral and bilateral contracts, the writers having happily recognised the increasing significance of the former. The defective nature of agreement, so vital for an understanding of the law of contract yet so difficult a subject for the beginner, receives individual treatment in a chapter on "Contract and Agreement". There

are further chapters in Part I on the duration of an offer, contractual intention, and mistaken identity. Those situations which are difficult, if not impossible to analyse usefully in terms of offer and acceptance (*e.g.* auction sales without reserve, the situation considered in *Clarke v. Dunraven* etc.) are dealt with in the first chapter, "Promises and Offers". This approach is to be welcomed since the student should be aware at the outset that offer and acceptance is merely a sufficient, but not necessary, criterion of agreement.

There is no longer a chapter on written contracts. The materials on the legal effect of signature of a document and *non est factum* are now contained in the section dealing with the objective nature of agreement. The reviewer fully agrees with this revision since, apart from decisions on mutual mistake *e.g.* *Raffles v. Wichelhaus*, decisions such as *L'Estrange v. Graucob* and *Gallie v. Lee* provide excellent material on this matter.

The content of the work has also been significantly altered. As is to be expected the materials have been undated. The chapter on exclusion clauses contains many useful comments and questions on the 'Unfair Contract Terms Act 1977', the main provisions of which are usefully set out in the appendix. The chapter on unenforceable contracts which in previous editions contained materials on s.4 Statute of Frauds 1677 and s.40 Law of Property Act 1925 is now reduced to one page which merely refers the reader to other works. Contractual capacity is also treated far more cursorily than previously. The reviewer agrees with this approach. Section 40 is fully

treated in works on Property Law; corporate capacity is too complex an area for satisfactory treatment in a work on the general law of contract; the contractual capacity of a minor is of much reduced significance since the reduction of the legal age of majority, and that of drunkard and mental patients is of minimal significance, except of course for the drunkard or patient.

In general *Smith and Thomas* is an excellent work. When used properly, viz. not as an excuse for a failure to read law reports, articles, etc., but as a work to encourage thinking, a student can derive considerable profit from its reading.

T.J. Follows

INTRODUCTION TO COMMERCIAL LAW

by C. Hamblin and F.B. Wright

(*Sweet & Maxwell, 1982,*

Concise College Texts.)

It is no mean task to produce a book surveying the important commercial law topics which is at once concise and accurate, yet these writers have succeeded in doing so.

The book is principally intended for non-law degree students *e.g.* students reading for a B.E.C. Diploma, or for examinations in banking, insurance and so on, but the law degree student will find in *Hamblin and Wright* a useful introduction to commercial law as would the layman.

The majority of the work (fifteen chapters out of

a total of twenty-four) is devoted to the general law of contract. The remaining chapters deal with the law relating to sale of goods, restrictive practices, consumer credit, agency, partnership, negotiable instruments, insurance, bankruptcy and companies. The book is easily readable, the exposition lucid. Relevant case law and statutory provisions are set out in the text.

The reviewer thoroughly recommends a reading of this book to anyone requiring a clear, brief statement of commercial law.

T.J. Follows

MEGARRY'S MANUAL OF THE
LAW OF REAL PROPERTY

by David J. Hayton

(Stevens & Sons Ltd., 6th Edition 1982
615 & Lvi1 pp., £11.50 paperback)

Megarry's Manual has always been a favourite with students of land law. The original author's intention was a book "primarily intended for the examination candidate whose main anxiety is not whether he will head the list but whether he will appear in it at all". The first five editions were tight, comprehensive and accurate statements of the law; brief, but reliable; readable only in small doses; the last of the five editions extending to 600 odd pages and somehow covering real property topics as various as trusts and powers, wills and intestacy, contracts and conveyancing, leases and tenancies, and the registration of incumbrances and of title. The

last topic, is a chapter tucked into the back of the book. Very sensibly, Hayton, the author of the sixth edition, has reorganised the book to reflect the realities of land law today: the registration of title systems is given the textual emphasis it deserves as he describes the structure of land law today in chapter 4, and the transmission of title in chapter 5. However, the reader still has to wait until chapter 15 before the mystery posed on page 130 - Rectification and Indemnity - is fully explained. This is not a serious criticism, but is indicative of the problem of organising a text to cover with clarity an interlocking subject like land law. Most of the rules and black-letter law has to be assimilated before any part of it is understood, and problems can be solved. This is an argument for a more integrated approach to the subject where the significant principles and concepts are studied comprehensively. The traditional division of property law into land law and equity and trusts provides the raw student with a distorted approach to his understanding; he finds it difficult to integrate subjects which are separated into two textbooks, and usually two courses: land law becomes a "difficult" subject as a consequence. An increasingly common problem for the courts is to satisfy an expectation to land arising out of expenditure or some representation. Such problems are solved by working through the law of trusts (resulting or constructive trusts), on to the law of co-ownership and the scheme of the 1925 legislation, and then finally to questions of notice and protection which may involve equitable rules and the application of the Land Registration Act 1925. It is this reviewer's opinion that the evolving law is

structured around the cases, and it is only out of the cases that a comprehensible textual structure can emerge for learning purposes. A book, whose structure is primarily taken from the statutory framework, assumes an internal logic to those statutes which is not replicated in the property problems of the real world. It is the judges who give shape and organisation to the common law in the cases; we should not allow our thinking to be dictated by the art of the parliamentary draftsman.

Subject to this rather general criticism, Hayton has done a good job, though, in places, his prose style lacks the clarity of the original author.

"Goff L.J., in an extempore judgment overlooking his views when Goff J., has endorsed Lord Denning's views when sitting with Lord Denning in *D.H.N. Food Distributors v. Tower Hamlets*, which has alternate grounds for the decision. This led Browne-Wilkinson J. in *Re Sharpe* to consider that he should follow Lord Denning's views, though his decision was also based on the licensee having an equitable proprietary estoppel interest."

Frankly this is not good enough! The book has a useful and necessary glossary, and the latest attraction, a colour cover illustration, this one from the Tate Gallery.

Barry Denyer-Green

