Corporations and Conflict of Laws. From the practitioner's viewpoint these areas of law will probably most easily become of actual practical value. On the other hand, from a more general point of view, other topics such as unjust enrichment, or the extent of strict liability in tort, would in the reviewer's view have been more rewarding for comparative treatment.

The final chapter contains a wide selection of English-language articles on foreign and comparative law. Since Dr Szladits' comprehensive bibliography of Comparative Law appeared in 1955 the need for this chapter is now certainly diminished. However, it makes it easy for the student to find without difficulty information on a wide range of additional topics. These may then be selected by the teacher for special class study.

Comparative Law is probably that subject of a law course which, more than any other, is influenced in the arrangement and choice of material by the foreign system or systems with which the instructor is really familiar. It is also influenced by his particular fields of interest. This casebook on Comparative Law will, for most teachers with background and interests differing from that of the author, be supplemented by additional materials, especially in the field of selected topics. As a basic work it fulfils a most valuable function.

On a minor detail the reviewer is unable to agree with 'Dr Comparovich', the authority in the imaginary consultation case. If the French system of 'cassation' really does apply in the civil law country concerned, the Court of Cassation would on granting 'cassation' have no choice but to remand the case to *another* intermediate appellate court than the one from which the case came (page 231).

The reviewer is pleased to be able to suggest for the next edition a limitation of the author's statement that 'there are no student-run law reviews in civil law countries, or indeed anywhere outside of the United States' (page 147, footnote): our *Melbourne University Law Review* has been student-run since its inception in 1957, and its predecessor, *Res Judicatae,* was run by students from 1952.

J. LEYSER*

*The Law of Real Property,* by R. E. MEGARRY, Q.C., M.A., LL.B., of Lincoln's Inn, Barrister-at-Law, and H. W. R. WADE, M.A., of Lincoln's Inn, Barrister-at-Law, 2nd ed. (Stevens & Sons Ltd, London, 1959), pp. i-lxxvii, 1-1077. Australian price £4 17.6d.

This book was first published in 1957; a second impression was printed in 1958 and in 1959 the present edition, the second edition, was published. This pace of events indicates the place this book has earned among property lawyers. In the Preface the authors tell us that the alterations and additions they have made must run well into four figures, though for the most part these have been on matters of detail. Of matters of more substance, the section on licences has been given a more independent status, and when dealing with restrictive covenants in equity the running of the burden is now discussed before the running of the benefit. The result is a textbook of outstanding merit, continuing the standard set by the first edition.

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This being a review of the second edition detailed comment is not proposed, but in the present reviewer's opinion the following minor comments may be made which, however, detract in no way from the book's general excellence. On page 72 the passage of dangerous projectiles over land is distinguished from the permanent occupation of the air space over land: in the former case an action for nuisance is said to lie, in the latter both nuisance and trespass. The state of the authorities after *Kelsen v. Imperial Tobacco Co. Ltd*[1] indicates that an action for trespass may also lie in the former case, as was in fact decided in 1927 by the Supreme Court of Tasmania in *Davies v. Bennison.*[2] Could not a tenant's right to fixtures be mentioned on page 665 or 666? Could not the statement on page 635 that a concurrent lease can have 'no effect in law unless made by deed' be qualified? A concurrent lease may well be a lease in possession within section 54 (2) of the statute[3] and there is juristic[4] and judicial[5] authority for the view that such a lease may now be created by parol. Further, if a lease of a reversion operates in law as an assignment of the reversion, may not the argument advanced on page 637 with regard to assignments that result from 'sub-leases' be applied to this case also? For example, may not a parol lease of a reversion come within section 52 (2) (g)? Could not the statement on page 637 that a tenant from year to year can create a sub-lease from year to year be expanded to include all periodic tenancies?[6] It would have been of interest if the authors had expanded more their opinion of the proposition enunciated by the recent series of cases that a right to exclusive possession is not necessarily determinative of a tenancy, all the more so in the light of the subsequent decision of the High Court in *Radaich v. Smith*[7] and that of the Privy Council in *Isaacs v. Hotel de Paris Ltd.*[8] As it is, the use of the words 'exclusive occupation' on page 607 may be compared with the statement on page 675 that a 'clause against parting with possession is not broken by the grant of a mere licence, since that confers no right to exclusive possession as does a lease'. It may be that the words 'exclusive occupation' will provide the key to the apparent conflict between the interpretation of the law by the High Court and the Privy Council: as stated by Windeyer J. in *Radaich v. Smith,*[9]

> Recently some transactions from which in the past tenancies at will would have been inferred have been somewhat readily treated as creating only licences. . . . They are all explicable if they mean, as I think they all do, that persons who are allowed to enjoy sole occupation in fact are not necessarily to be taken to have been given a right of exclusive possession in law.

As has been stated, the above comments serve only to emphasize the merit of this textbook. As a students' textbook it should prove suitable

[1] [1957] 2 Q.B. 334.
[2] (1927) 22 Tas.L.R. 52.
[3] Property Law Act 1958.
[4] *Woodful on Landlord and Tenant* (25th ed. 1954) 285. See also *Wolstenholme and Cherry's Conveyancing Statutes* referred to by the authors on p. 635, n. 69.
[5] *Richardson v. Landecker* (1950) 50 S.R. (N.S.W.) 250.
[6] The common law has been so stated in Australia: *Woods v. Moses* [1953] Argus L.R. 1165; *Burrell v. Duncan* [1957] St.R.Qd. 52, 56.
[7] (1959) 33 A.L.J.R. 214.
[8] [1960] 1 W.L.R. 239.
[9] (1959) 33 A.L.J.R. 214, 218.

for both the average and the first-class student, for while it contains a great wealth of material and references, it is nevertheless so well set out and so clearly expressed that no difficulty should be experienced in discerning the more fundamental principles of the subject.

This book is a text on English land law, but the treatment by the authors of the rules of the common law relating, for example, to legal estates and concurrent interests independently of the provisions of the English 1925 legislation, renders this book more readily adapted to the study of the land law of Victoria.

D. MENDES DA COSTA*

*Federal Jurisdiction in Australia,* by Zelman Cowen. (Oxford University Press, 1959), pp. i-xv, 1-211. Price £2.

In the five essays comprising this book, Professor Cowen has directed his attention to five super-technical areas of Australian public law—the original jurisdiction of the High Court, diversity jurisdiction, the federal courts, the territorial courts, and the exercise of federal jurisdiction by state courts. I can recall with some vividness my own ineffectual efforts during an Australian stay to comprehend the tortured ramifications of the law in these areas. Indeed, it seemed to me then that students more learned than I in Australian law shared some of my perplexity. This bewilderment and confusion over what Professor Cowen felicitously describes as 'the Gothic complexities of federal jurisdiction' has tended, I think, to produce the atmosphere of romance and mystery which inevitably envelops the unknown. The trouble with Professor Cowen's essays is that they pierce the mystery and destroy the charm. What is revealed by the author's persistent and obdurate clear-headedness is a structure of intricate complexity often signifying very little indeed. The apparatus of super-technicality in the area of federal jurisdiction can be defended, of course, as Justice Frankfurter has often stressed, in terms of its functioning in the allocation of power within a federal system. The answer to those impatient to get on with the merits of the case is, in short, that these rules of jurisdiction subserve ends of policy no less significant because of their subtlety and lack of immediate relevance to the dispute between the litigants. What Professor Cowen's book does, however, is to cast considerable doubt that many of the rules of Australian federal jurisdiction serve any meaningful purposes at all. And to the extent that this is the case the intricate crochet work of jurisdictional distinctions comes to little more than plain foolishness.

The author reaches conclusions of this character with respect to several important areas of federal jurisdiction. He fails to see the wisdom of vesting the High Court, actually or potentially, with original jurisdiction over all matters of federal jurisdiction, especially since the High Court exercises a general appellate jurisdiction over the state courts anyway and Parliament was authorized to invest state courts with federal jurisdiction. He concludes that the establishment of a head of federal jurisdiction based on diversity of state residence lacks even the superficial justification given for it in the United States since there was never any real fear of bias by state tribunals against non-residents and, in any event, the general appellate jurisdiction of the High Court was available as a

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