

## BOOK REVIEWS

***THE LAW OF SUCCESSION IN NEW SOUTH WALES*** by G. L. Certoma, The Law Book Company Ltd, 1987, lix + 300 pp. (including index). \$66.00 (hard cover), \$49.50 (limp).

In her forward to this book, the Hon Justice Gaudron says, "Death, being the great certainty, affects us all. It should therefore be a matter of some surprise that there has not before been published a text book on the law of Succession specifically for New South Wales." This text is worthy to be the first of its kind. Though the basic concepts of the law of Succession are the same in England and all the Australian states, there are a number of detailed differences, which have for the most part occurred by statutory intervention, which make it difficult for the reader of a book from another jurisdiction to discover the New South Wales law, or to select what is relevant in this State from a general text dealing with the law in Australia as a whole. A book specifically for New South Wales will therefore be of great help to both students of the subject and practitioners in the field, and should make the task of finding the relevant law much simpler.

The author's style is both lucid and economic. Though the text consists of a modest 300 pages, it is remarkably comprehensive. While fully covering the law governing inheritance on intestacy; the formalities relating to the making and revoking of wills; the obtaining of grants of representation; and the administration of estates, as one would expect, the book contains a fine introductory chapter on the nature and history, both in England and New South Wales, of the law of Succession; deals succinctly with the relevant conflict of laws principles applicable to Succession; and contains two really fine chapters on the construction of wills, a most important aspect of this subject, not always included in general texts of this type.

Two other parts of the work merit comment. Part 5 dealing with Family Provision was the only text at the date of publication to deal with the new Family Provisions Act 1982, which replaced the Testator's Family Maintenance and Guardianship of Infants Act 1916 in New South Wales. The author has made the new provisions into a comprehensive whole, and made some most reasonable and informed speculations as to the way in which the new legislation is likely to develop this branch of the law in this State.

Finally, no where more clearly does the author display his economy with words than in the seven pages devoted to the difficult question of order of application of assets for the payment of debts and liabilities

in solvent estates. Whole books have been written on this topic which have not expounded the principles as clearly as is done here. Students should be able to understand from this the basic way in which the statutory order prescribed by Part II of the Third Schedule of the Wills, Probate and Administration Act, 1899 combines with the provisions of s. 145 of the Conveyancing Act, 1919, and of s. 92(2) of the Life Insurance Act 1945 (Cth), thus enabling them to read more detailed works with fresh comprehension.

It is to be noted that the author has chosen to cite only one or two cases in support of his propositions and for the most part relies on English authorities, citing New South Wales or other Australian authorities only where our law differs from the English, or where they are particularly appropriate. While it may be suggested that all relevant New South Wales cases should be cited in a work exclusively on the law in New South Wales, in a law so long and well established as that of succession it is of benefit to the student to see for how long a period a proposition has been established. The short footnotes keep the main body of text clear and easy to follow, and, of course, reduce the number of pages and hence the price of the work, which must these days always be a big consideration in student text-books.

It is unfortunate that the recent amendments to the Wills, Probate and Administration Act, 1898, which are expected to come into force on the 1st November, 1989, will make some of that part of the text dealing with formalities out of date. It is to be hoped that the author will produce a second edition of this work somewhat earlier than he may otherwise have planned.

OLIVE WOOD, B.A., LL.B. (Syd)  
Visiting Associate-Professor,  
University of Technology, Sydney,  
Law School.