BUTTERWORTHS SENTENCING GUIDE, by Geoffrey G. Hall. Butterworths, Wellington, 1994. xii and 1254pp.

Butterworths Sentencing Guide ("the *Guide*") is one of a new breed of condensed versions of various loose-leaf publications. In this case, the prototype was *Hall's Sentencing*,[1] the definitive New Zealand text on criminal sentencing. The earlier text was an up-to-date reference manual designed with practitioners in mind, whereas the new *Guide* is primarily aimed at meeting the needs of students and teachers.

The *Guide* focuses on sentencing for offences committed under the Crimes Act 1961 and Summary Offences Act 1981, rather than offences created by statutes such as the Resource Management Act 1991 or the Fair Trading Act 1986. It is divided into two main parts, the first of which is an introduction to sentencing principles. This is followed by a commentary on the Criminal Justice Act 1985 and the Criminal Justice Amendment Act 1993. The main casualties of the trimming down process have been nine appendices on topics including "Youth Justice" and "Proceeds of Crime" contained only in *Hall's Sentencing* (although the reader is frequently referred to them - without being reminded of where they can actually be found).

Hall has produced an extremely practical text, and certainly cannot be accused of digressing from the task at hand. He opens with chapters on legislative guidelines for the exercise of sentencing discretion, and an informative analysis of the guideline judgments delivered by the higher courts in New Zealand and the United Kingdom. Hall notes that the pragmatic and individualised approach of the New Zealand Court of Appeal can be seen to be giving way to an "ever increasing body of case law, both reported and unreported, on sentencing principles and practice."[2]

However, Hall points out that, although the efficacy of guideline judgments is obvious, little attempt has been made to analyse and evaluate the various factors which influence sentencing.[3] Instead:[4]

> [F]actors are simply identified, eg, with respect to drug offending, the quantity and the level of dealing; and aggravated robbery, the type of place where the offence was committed, the risk of death or injury, and the potential proceeds.

In addition, the English guideline judgments are criticised for offering no guidance in relation to the more minor offences which are the bread and butter of the lower courts.[5] Critical analysis of guideline judgments provides the reader with an overview of the way in which New Zealand and English authorities should be used by counsel, as well as highlighting areas of the law requiring attention.

Unfortunately, this type of analysis is somewhat lacking throughout the remainder of the text. Hall concentrates his efforts on providing a comprehensive yet concise summary of the case law relating to the provisions of the Criminal

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1 Hall, (1987).
2 At para I.2.
3 At para I.2.2.
4 Ibid.
5 Ibid. A similar criticism could probably be made of the New Zealand judgments.

Justice Act, rather than critiquing the decisions themselves. At times, apparent inconsistencies in the law of sentencing pass without note. For example, the author states that due to the personal nature of criminal punishment an offender's estate is not generally called upon to pay outstanding fines.[6] For a similar reason the Australian courts have considered the possible detriment to innocent shareholders before imposing a substantial fine on a corporation.[7] Yet in practice the likelihood of an offender's family paying a fine is not to be considered by the bench when passing sentence.[8]

Hall makes it clear that the personal nature of punishment in this context is connected with a concern that the courts should not penalise third parties. But the courts' inability to take account of the reality of family situations where offenders have fines paid on their behalf, shows a discrepancy between policy and practice which goes unnoted in the text.

Another anomaly is evident in Hall's discussion of s 5 of the Criminal Justice Act. The New Zealand Court of Appeal has stated that a victim's desire for vengeance cannot be taken into account when passing sentence, whereas a victim's sympathy for the offender can be viewed as a mitigating factor.[9] The latter is a controversial view which is not challenged in the *Guide*. The failure to even note the sociological significance of our courts taking account of a victim's forgiveness in domestic violence cases indicates that the *Guide* is concerned with stating the existing law rather than evaluating or questioning it.

The *Guide* is intended to assist students and teachers, yet its format does not always meet this goal. Within its two main parts, much of the text is consistently structured under sub-headings relating to specific crimes. Although this format will be of great use to practitioners, it is less helpful for students. In addition, reference to the principles underlying various decisions noted in the statutory commentary section of the text would make it easier for students to assess the legitimacy of such principles.

Perhaps a greater disappointment is the lack of coverage accorded to the New Zealand Bill of Rights Act 1990 in the *Guide*. Section 9 of the Bill of Rights Act prohibits the use of cruel, degrading, or disproportionately severe punishment. This may be significant in relation to sentences such as corrective training, a sentence of "exacting and rigorous military style training" and "hard physical work" imposed under s 68 of the Criminal Justice Act in order to give the offender a "short sharp shock".[10] Hall quotes the *Report of the Penal Policy Review Committee*[11] which states that:[12]

> [F]or the underprivileged, inadequate youth who can barely cope, this sentence may infringe the United Nations prohibition of cruel and inhumane treatment.

However, there is no consideration of the added impetus the Bill of Rights may give to a plea in mitigation. Although the s 4 override would preclude any challenge to the sentence itself, the Bill of Rights could still be argued in individual cases based upon the circumstances of the offender involved. A recent case shows that the sentence of imprisonment, while not "disproportionately severe" per se,

6 At para S25.13.
7 At para S26.7.
8 At para S27.8.
9 In *R v Crime Appeal* Court of Appeal, Wellington. 4 September 1992 CA 246/92. Cooke P, Casey, Hardie Boys, McKay, and Thomas JJ. Noted [1992] BCL 1905. Cited at para I.5.7(c).
10 At para S68.2.
11 Penal Policy Review Committee, Wellington (1981).
12 Ibid, 81. Cited supra at note 10.

may be viewed as such when applied to an intellectually handicapped offender.[13] As author of the Bill of Rights Act commentary in *Dixon's Road Traffic Law*,[14] Hall has promising credentials in relation to Bill of Rights issues. It is unfortunate that this has not resulted in a more extensive exploration of the Bill's implications in the *Guide*.

Nonetheless, *Butterworths Sentencing Guide* deserves to be assessed on the basis of what it does provide.

> Trying a case is as easy as falling off a log. The difficulty comes in knowing what to do with the accused once they have been found guilty.[15]

The text is a thorough and succinct summary of the current law governing the difficult area of criminal sentencing. As a practical guide the text is unsurpassed, and although its format is more suited to the needs of practitioners than students, the reader is confident in predicting that it will be of value to both.

*Vivienne Parre**

*BA

COMPANY LAW IN NEW ZEALAND: A GUIDE TO THE COMPANIES ACT 1993, by David O. Jones. Butterworths, Wellington, 1993. xxxviii and 177pp.

The passing of the Company Law Reform Package, including the Companies Act 1993 and the Companies Amendment Act 1993, has had a substantial effect on new and existing companies since the legislation came into force on 1 July 1994. The Law Commission clearly intended to present the reform in the most understandable and accessible manner practicable,[1] so that directors and shareholders would have access to the new legislation along with professional expert advisers.[2]

David Jones simulates this approach in his guide to the new Companies Act 1993. In the introduction to his book, Jones asserts its purpose:[3]

> [I]t is not meant to be a comprehensive text book but more a practical guide to understanding essential parts of the new legislation for professional advisers, company directors, company executives and students.

Company Law in New Zealand is therefore concerned with assisting not only professional advisers, but also company directors and shareholders searching to identify the rights and duties within a company.

One of the principal criticisms of the 1955 Act was that some of the major

13 See *R v P* (1993) 10 CRNZ 250.
14 Cottle and Chang (eds), (1992).
15 Attributed to McArdle J, cited at para I.
1 New Zealand Law Commission, *Company Law Reform and Restatement*, NZLC R9 (1989) para 121.
2 Ibid, para 123.
3 Ibid.

company law rules were not contained within the legislation, but had to be discerned from case law which was frequently difficult and unclear.[4] This effectively prevented the average director, manager, or shareholder from understanding the relevant law without guidance from professional advisers. The book is therefore a valuable contribution in achieving the aim of increased accessibility of the law. This is so for two reasons. First, the book sets out the comprehensive new legislation in a simplified, non-legalistic manner. Second, in areas where more radical changes have been implemented, such as solvency testing and appraisal rights, in depth analyses are conducted as to the application and operation of these mechanisms. Company managers and shareholders are thereby provided with guidelines as to how these mechanisms will apply.

However, an emphasis on the functional application of the reforms does have disadvantages. One result is a general lack of theoretical analysis of the required reform. Further, there is a failure to consistently refer to old case law as a basis for comparison with the implemented changes.

The text includes a summary table of the amended 1955 Act, comprehensive tables of cases and statutes, and an index. The book has a pragmatic design, intended to facilitate a comparison between the old and new legislation. Most chapters are divided into two comparative columns, providing an obvious differentiation between companies subject to the modified Companies Act 1955 and companies registered under the 1993 Act. This summarily presents the different requirements relating to each type of company. A disadvantage created by the adoption of this format is frequent repetition throughout the book to ensure the reader gains an overview of the law.

The author has restricted his scope to some of the "key operational aspects of the new laws" as they apply to new and existing companies.[5] The book is not comprehensive in respect of the changes implemented by both the Companies Act 1993 and the Companies Amendment Act 1993. Nevertheless, the more fundamental changes impacting on companies are addressed in the practical manner promised.

Company Law in New Zealand covers 16 major topics, ranging from incorporation to shareholder remedies. The logical starting point is re-registration. The considerations and ramifications of re-registration are effectively evaluated, the author concluding that early re-registration is advisable.[6] Jones suggests that any saving derived from delaying re-registration is illusory, as such costs cannot be avoided indefinitely. A better basis for early re-registration is also noted, in that certain benefits of increased capital management flexibility and director indemnity may only be utilised through re-registration.[7]

An important change implemented by the 1993 Act is the abolition of the concept of par value. The shortfalls of this concept are conveyed through the use of a very effective set of examples. Readers guided through the examples are likely to find them more instructive than discursive text. The discussion of par value is evidence of the book's ability to provide practical instruction which is more useful than traditional theory.

Possibly the most significant reform of the 1993 Act is the introduction of the solvency test. This test replaces the capital maintenance rule, referred to by Jones as:[8]

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4 Ibid, para 122.
5 At vii.
6 At 4.
7 At 2.
8 At 43.

[A]n anachronism denying modern financing techniques to New Zealand companies.

Discussion of the solvency test is detailed, and includes a reference to the Model Business Corporation Act (US)[9] as providing guidance on an operational basis.[10] However, the text lacks a truly balanced evaluation of the solvency test. The author does not address the uncertainty surrounding the application of the solvency test for financial assistance under s 77 of the 1993 Act. This uncertainty is centred upon whether the modified test is to be applied separately from the s 52 modification for distributions or whether a "double-modified" test applies.

Another crucial reform reviewed in the text is the introduction of minority buy-out rights. Jones analyses the operation of such "appraisal rights", again drawing heavily on North American developments.[11] It is recognised that the procedure for exercising an appraisal right under the 1993 Act entails a valuation of the shares to be bought out. This leads the author to conduct a comprehensive survey of the North American approach to valuation of shares and the various models available. He also discusses New Zealand case law where similar share valuing exercises have been undertaken, but predicts that:[12]

[H]aving no precedent in New Zealand for an appraisal right the New Zealand Courts will be prepared to look to the American experience.

The author concludes the discussion of appraisal rights by warning directors and management of the significance of the right and the consequent need to familiarise themselves with it.

Directors' duties is another area examined in some depth within *Company Law in New Zealand.* Jones sets out the common law duties of directors as they operated before modification by the 1993 Act and the Companies Amendment Act 1993.[13] On contrasting these duties with those now imposed by statute, it is concluded that the duties have not been greatly altered by "codification".[14] However, it is noted that codification will increase a director's potential liability due to the increased knowledge and expectation of the beneficiaries of such duties. Jones also points out that:[15]

[T]he Act permits directors to take steps to minimise the consequences of any potentially increased liability through indemnity and insurance.

In summary, David Jones has succeeded in creating a book which provides practical advice and considerations for those involved in the management of companies. The new Companies Act 1993 has abandoned the English company law model and drawn heavily on North American models. *Company Law in New Zealand* contains a comprehensive examination of the application of pivotal concepts in North American jurisdictions, and will therefore be of much assistance to practitioners advising clients on the requirements of the 1993 Act. The text will also assist students in their understanding of the more significant changes enacted

9 1991 ed.
10 At 46.
11 At 77.
12 At 85.
13 At 105.
14 The term is not entirely appropriate. See 113.
15 At 123-124.

by the Company Law Reform Package. However, the book is structured for quick reference rather than ease of reading, and the somewhat limited analysis of existing company law does not give students a consistent basis for evaluating the reform now in place.

The book is a valuable contribution to the existing body of literature which analyses the likely impact of the Companies Act 1993. This contribution is, however, very much focused at a practical level and should therefore be supplemented with other texts on the new company regime in order to appreciate all aspects, both practical and theoretical, of the changes implemented.

*Angela Dutton**

*BCom

LOCAL GOVERNMENT LAW IN NEW ZEALAND, by Kenneth A. Palmer. Law Book Company, Sydney (Second edition 1993). c and 734pp.

The field of local government law is vast and complex, involving contributions from an astonishing variety of specialist legal and non-legal disciplines. The bodies that operate in this area are major contributors to economic, political, and social activity. Local government impacts substantially on the lives of all individuals. Within it are subjects which vary from the mundane to the colourful, including such diverse topics as disaster recovery, sanitary works, smokefree environments, and massage parlours. Any attempt to cover this field comprehensively in a meaningful way is thus ambitious. Yet Dr Palmer's book succeeds admirably.

There have been considerable changes in the local government context since *Local Government Law in New Zealand* was first published in 1978. As the author notes:[1]

> [I]n the last decade political objectives of central government have resulted in a fundamental reorganisation and reform of the structure, local functions, and powers.

Among the major themes which recur are the pervasive effects of deregulation and local body restructuring following the 1989 and 1992 amendments to the Local Government Act 1974. These changes make the arrival of the second edition timely. At present it stands alone in this vast field. Despite the similarity in chapter headings and parts of the text, this is in many ways an entirely new book. It is thoroughly up to date and the impact of a variety of recent legislation is considered, including the Privacy Act 1993, the Human Rights Act 1993, the New Zealand Bill of Rights Act 1990, and the Employment Contracts Act 1992.

The book has a similar structure to that of the original. The author begins with a general introduction covering the history, structure and objectives of local authorities. Subsequent chapters cover contracts, tort liability, administrative principles, elections, employment, bylaws, valuation, and rating. Also included are more specific discussions on education and health authorities as well as

1 At 1.

financial accountability provisions and local authority trading enterprises. These areas in particular have undergone major developments in line with the central government policies of deregulation. Recognising the overlap between planning law and the functions of local government, a substantial chapter is included on resource management under the new Act.[2] Dr Palmer also places considerable significance upon the Treaty of Waitangi throughout the text, referring to recent case law in calling it:[3]

> [A] dynamic charter of accord ... such that no finite statement can be made as to the extent of impact of the principles.

The text is logically structured and provides relatively easy access to information which often involves technical and isolated points. One result of the chapter format employed is that some topics such as judicial review, the role of the Ombudsman, and the Treaty of Waitangi recur throughout the book under several chapter headings. However, a comprehensive index prevents this causing any difficulty and highlights the fact that the book is intended to be a reference text.

The author's aim is to provide a definitive statement of the law. In order to achieve this he collates the statutory provisions governing a particular area and interprets the statutes in light of carefully summarised case law. Often, recent reforms have not yet been the subject of litigation. Where this occurs, Dr Palmer gives a possible interpretation and offers insights into areas of concern and potential ramifications. Such analysis will be particularly useful to practitioners looking for a practical statement of the law on a specific or isolated legal problem involving unresolved issues. The book is invaluable in this respect, as is evident in the examination of areas such as local authority reorganisation schemes and amendments to s 37 of the Local Government Act 1974.[4] Procedural requirements under s 37 are set out in detail,[5] accompanied by references to case law and a number of English Royal Commission reports[6] which aid interpretation of statutory phrases such as "good local government".[7]

Although impressively detailed in many respects, the main text of *Local Government Law in New Zealand* tends to summarise the current state of the law while copious footnotes allow further research to be more focused. On occasion the specialist in a particular area may require more detail. However, it must be recognised that in a general descriptive reference text with such a broad scope there is necessarily a trade off between comprehensiveness and depth. To the credit of the author, this trade off is to some extent minimised. The text provides readers with an overview of the law and yet facilitates a more substantial study into individual problems.

The text often lacks critical analysis of deficiencies in the law, its reforms, and the rationales behind them. Dr Palmer takes a neutral perspective on general issues such as deregulation and the diminished role of regional authorities. For example, changes to the Auckland Regional Council's functions under the 1992 amendments to the Local Government Act 1974 are outlined without being critically evaluated.[8] Whether these changes will result in better co-ordination of the

2 Resource Management Act 1991.
3 At 576.
4 At 33.
5 See 33-44.
6 At 40.
7 Local Government Act 1974, s 37zzs.
8 At 30.

regional services of local government is not queried, although such issues are topical and contentious. Clearly the author envisaged that these were beyond the scope of the book, which does not conform to a particular academic or philosophical perspective. Thus it is as a declarative summary of the law that the book is most successful, achieving its rather ambitious aim:[9]

> [T]o provide an appropriate exposition of the law for the information of the judiciary, the legal profession, legal officers and students of the law.

Local Government Law in New Zealand therefore functions as a reference for lawyers active in the area and as a guide for practical day to day local government operation. It is indeed welcome for its perceptive analysis of recent developments and comprehensive coverage of the broad and often technical subject matter. In the preface Dr Palmer notes that the sheer size of the task "has necessitated a brevity of style and expression in many parts",[10] but in the reviewer's opinion the result is in no way superficial or lacking.

Kent N. Phillips

CRIME, SHAME AND REINTEGRATION, by John Braithwaite. Cambridge University Press, Melbourne, 1993. viii and 226pp.

Braithwaite's theory of reintegrative shaming suggests that the key to controlling crime is a cultural commitment to shaming in positive ways.[1]

> [S]haming ... labels the act as evil while striving to preserve the identity of the offender as essentially good. It is directed at signifying evil deeds rather than evil persons in the Christian tradition of 'hate the sin and love the sinner.'[2]

Braithwaite contends that reintegrative shaming directed at offenders is the essential precondition for a low crime rate.[3] However, shaming will be counterproductive and disintegrative if it pushes offenders into the clutches of criminal subcultures.[4] According to the author, shaming can control crime when it is both powerful, and bounded by ceremonies which reintegrate offenders back into the community.[5]

Reintegrative shaming is not intended to replace established theories.[6] In fact, Braithwaite takes the opportunity in this text to integrate some of the major existing theories with his own.[7] The discussion of a number of dominant criminological theories in Chapter Two is typical of Braithwaite's engaging and easily

9 At vi.
10 At vi.
1 At 1.
2 At 101.
3 At 4.
4 Ibid.
5 Ibid.
6 Ibid.
7 At 5.

understandable style. Despite its largely theoretical content, the text retains the reader's attention through social comment which is presented in a conversational and accessible style.

This reviewer does, however, perceive a number of problems inherent in the author's theory. Reintegrative shaming assumes the existence of a core consensus in modern Western societies that compliance with the criminal law is an important social goal.[8] Therefore reintegrative shaming cannot explain the violation of laws which are not consensually regarded as justified.[9] As a result, Braithwaite acknowledges that the theory is immediately limited to predatory offences against persons and property, and does not apply to victimless crimes such as prostitution, homosexuality, and the use of marijuana.[10] The assumption that prostitution and the use of marijuana are crimes which do not involve victims can in itself be challenged. But more importantly, the reviewer has serious concerns about the use of homosexuality as an example of criminal behaviour.[11] Braithwaite's reference to homosexuals as a criminal subculture[12] adds nothing to this dubious aspect of his theory.

Two social conditions identified as conducive to reintegrative shaming are communitarianism and interdependency, discussed in Chapter Six. Various criminological studies have determined these to be at the heart of Japan's success in securing a low and declining crime rate.[13] Unfortunately for the theory, most Western cultures are characterised by individualism - the antithesis of communitarianism. Nevertheless, Chapter Eight sets out to test the theory of reintegrative shaming through analysis of various research and studies. Although research demonstrates the importance of communitarianism and interdependency, the text is not convincing in demonstrating the link between these factors and reintegrative shaming. As in other areas of the book, this section contains useful discourse on problems facing society in the area of criminal law, but it did not further the reviewer's commitment to the theory as an answer to these problems.

Braithwaite's examination of communitarianism and white collar crime[14] is also inconclusive. By the author's own admission, there is little evidence of the relationship between communitarianism, interdependency, and white collar crime.[15] The only substantial empirical evidence is based upon the Japanese experience, although, as the author points out, Japanese communitarianism is just as manifest in criminal gangs as it is in legitimate business or communal activities.[16] Although analysis of the Japanese concern with values like loyalty and repentance is useful, the emphasis placed upon this Eastern culture in formulating a criminal theory for Western societies can be questioned.

Braithwaite uses the family as an example of effective shaming.[17] However, the term "shaming" seems inappropriate in a family environment, and might be better described as education and positive reinforcement. Shame connotes a negative attitude no matter how it is embellished. The *Concise Oxford Dictionary* defines it as a "feeling of humiliation excited by consciousness of ... guilt or shortcoming".[18] A number of readers are likely to disagree with the notion that

8 At 38.
9 At 3.
10 At 39.
11 At 14.
12 Ibid.
13 At 84.
14 See Chapter Nine.
15 At 135.
16 At 137.
17 At 56.
18 Oxford University Press, (7th ed 1982) 969.

shaming should form the basis of raising a family. It is notable that Braithwaite hypothesises here, and can only predict the success of his theory.

In New Zealand the advances made in dealing with young offenders do appear to lend some support to the theory of reintegrative shaming. For example, the use of family group conferences under the Children, Young Persons, and Their Families Act 1989 can be viewed as a method of shaming in line with Braithwaite's theory. It is unfortunate that an Australian text like *Crime, shame and reintegration* has overlooked a concrete example within New Zealand society of the use of aspects of shaming as a logical alternative to more traditional criminal punishment.

The author states:[19]

> It would seem that sanctions imposed by relatives, friends or a personally relevant collectivity have more effect on criminal behaviour than sanctions imposed by a remote legal authority.

The above argument reflects the "community forum" suggested in Chapter Ten.[20] In the reviewer's opinion this approach supplies the greatest hope for the general application of the theory in a modern Western society. Some discussion of indigenous peoples' preference for traditional forms of punishment, evident among some Maori in New Zealand and some Aboriginal tribes in Australia, would have added weight to this aspect of Braithwaite's theory. The failure to note such relevant and practical examples reinforces the reviewer's impression that the theory of reintegrative shaming is merely that - a theory.

Braithwaite's theory appears to suffer from similar limitations to other theories regarding criminal behaviour. Reintegrative shaming cannot account for individuals who make an affirmative decision to conduct criminal activity, regardless of their background or social status. It is, after all, a fundamental of human behaviour that not all conduct can be rationalised or theorised.[21] In addition, the emphasis upon shaming is possibly misplaced. As children grow into adulthood they are weaned from control by punishment, and encouraged to rely on internal control instead.[22] For this reason, the theory of reintegrative shaming would do better to reflect the value of continuing education, which would improve our internal systems of control.

Nevertheless, the text can be commended for its analysis of community-based objectives to help combat crime. As Cressey states,[23] *Crime, shame and reintegration* "won't be the last word on crime causation",[24] but it does provide an alternative method of viewing, and possibly dealing with, the incidence of crime in New Zealand and other Western societies. The book's logical progression from statements of theory through to application of theory in modern society, and Braithwaite's informal rather than scientific style, have resulted in a criminological text which will be of interest to a wider audience than might otherwise be expected.

Paul Sills

19 At 69.
20 At 173.
21 See Posner, *Economic Analysis of Law* (1992) 218.
22 At 79.
23 Donald R. Cressey, late Emeritus Professor, Department of Sociology, University of California, Santa Barabara.
24 See back cover.

SALE OF LAND, by D. W. McMorland. Uniprint, Auckland, 1994. liii and 461pp.

> In the everyday subject of vendor and purchaser it is especially important that the law should be as simple as possible.[1]

The goal of simplicity in the law of vendor and purchaser is an unenviable one, especially for a writer seeking to provide a comprehensive text on the New Zealand law relating to the sale of land. McMorland's book, as the author acknowledges,[2] has its origins in the four editions of the *Handbook on Agreements for Sale and Purchase* by Peter Blanchard, now a High Court Judge of New Zealand. The Honourable Justice Blanchard states in the foreword to McMorland's text that:[3]

> This country has long required a comprehensive treatise on contracts for the sale of land.

The text would therefore be welcome even if it did little more than narrow the long-standing gap in New Zealand legal literature on the subject. Fortunately, *Sale of Land* goes a great deal further than this. Not only does it provide a detailed examination of practical and theoretical aspects of the sale of land, but it is the first text to incorporate a number of recent statutes into the vendor and purchaser context. The legislation considered includes the Building Act 1991, the Resource Management Act 1991, the Companies Act 1993, the Consumer Guarantees Act 1993, and legislative amendments such as s 44A of the Local Government Official Information and Meetings Act 1987.

The Contractual Remedies Act 1979 and other contract legislation are applicable to all contracts (including those for the sale of land). It is therefore necessary to examine the general law of contract in order to place agreements for the sale of land in a meaningful context. The author does this by setting out brief accounts of the law relating to agency, misrepresentation, contract formation, and various remedial aspects of contract law. It is unfortunate that some other relevant aspects of contract, such as mistake, are not covered in the text, as their inclusion would add to the completeness of the text as a practical resource. Such a shortfall is the result of the inevitable trade off that must be made if a topic like the law of vendor and purchaser is to be condensed into a text of manageable size.

Having made brief statements of the general law as it relates to contract, the author then examines the law specific to contracts for the sale and purchase of land. The text includes chapters on issues such as deposit, particulars of sale, title, the position pending completion, and settlement. Chapter six contains a comprehensive discussion of Parts II and IIA of the Land Settlement Promotion and Land Acquisition Act 1952, but the author does not question the Act's aim of preventing undue aggregation or its value in practical conveyancing terms. It is clear throughout the text that the author is concerned with stating the law as it is, rather than as it should be. Practitioners will not be disadvantaged by this but students may have to look elsewhere for a truly critical analysis of some issues.

The application of the fifth edition of the REI-NZLS standard form contract is incorporated into the text along with discussion of the general law. The author's

1 *Hunt v Wilson* [1978] 2 NZLR 261, 273 per Cooke J (CA), cited at v.
2 At ix.
3 At vii.

technique of moving from propositions of general law to the express provisions of the standard form contract is an effective one. However, to allow readers an overview of the form and an appreciation of its interconnecting provisions, it would be useful to have the entire form reproduced in an appendix. The subject of Goods and Services Tax on land sales is included as an appendix and provides a useful guide for practitioners.

Sale of Land is, in parts, somewhat repetitive. This is undoubtedly for reasons of totality and may be helpful for those wishing to examine discrete portions of the text, but is, in instances, rather tedious for others. However, the text is organised into relatively small numbered paragraphs, which allow lengthy and elaborate legal issues to be developed on a step by step basis. This enables the reader to grasp and comprehend one aspect of the law before moving to a directly related issue. Numerous cases are cited in the book to illustrate principles of law, some of the more important or interesting being set out more fully in the text itself. This provides readers with an excellent starting point for more detailed research, without an emphasis on distinguishable or irrelevant factual scenarios. Once again, this style will be particularly useful to practitioners, although students may prefer the colourful case law analysis of Hinde, McMorland and Sim's *Introduction to Land Law*.[4]

McMorland gives a number of practical hints for the application of certain aspects of the law. For example, in the discussion of remedies for breach he sets out when and how proceedings for specific performance may be commenced, including details required in a statement of claim. This removes the topic from a purely theoretical sphere for students, while giving pragmatic advice to practising lawyers. It should be noted that the book is in no way suitable for lay conveyancers and will not alleviate the numerous problems that such people seem perpetually to bring upon themselves.

The unfortunate number of typographical errors may be a reflection of the haste in which the book was produced to meet student demand, or a reflection of the difficulties inherent in having a book of this scope published independently. Overall, any criticisms made do not derogate from the value of this comprehensive and long-awaited text, which will be welcomed by all those involved in the law relating to contracts for the sale of land in New Zealand.

*Nichola Hall**

*BA

4 (1986).

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