

will successfully achieve that aim although teachers of law may find the descriptive emphasis a little unhelpful. However, for New Zealand it does not offer sufficient in the areas of most interest to warrant purchasing.

THE LAW OF FENCES AND PASTURES PROTECTION (NEW SOUTH WALES) by H. K. Insall. 2nd ed. Law Book Company, Sydney, 1984, xxi plus 208 pp. Reviewed by A. H. Angelo.*

This is an interesting text because it is the sort of book that should be written for New Zealand but which does not in fact exist for New Zealand. The New Zealand legislation and law on the topics dealt with in this text are different from the laws of New South Wales. The nearest New Zealand equivalents to the New South Wales laws are the Agricultural Pests Destruction Act 1967, the Animals Act 1967, the Fencing Act 1978, the Forest and Rural Fires Act 1977, the Noxious Plants Act 1978, the Wild Animals Control Act 1977, and the Wildlife Act 1953.

This second edition indicates the range of issues at large and points to a need in New Zealand for a book on farming law — specifically one on the fencing laws affecting different categories of land, animal identification and control, and noxious animals. The author says that there are few relevant New South Wales cases. Equally there are very few in New Zealand. The farming community here therefore proceeds on the basis of its accepted practices regardless of the laws. Inevitably however there must be in existence a body of valuable legal writing in the files of organisations like Federated Farmers. It would be very good to have that knowledge made accessible to the New Zealand public in a book such as this.

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THE WESTERN IDEA OF LAW by J. C. Smith and David N. Y. Weisstub.
Butterworths, Toronto, 1983, xxix plus 685 pp. Reviewed by A. H. Angelo.*

This is a very useful and very readable collection of materials on the western idea of law, its historical evolution and its future. The collection is in the widest sense, jurisprudential. The extracts cover areas of law (such as agreements and property), patriarchy and kingship, the historical foundation of the modern western legal systems, and law and the power of the state.

If there is an overriding theme in the book it would appear, as suggested in the Introduction, to be the relationship of rationality to modern law: "Whether through fear of irrationality or the positive lure of the scientific paradigm, universal reason has evolved, in the West, as the antithesis of myth." Therefore —

Law ceases to be part of an integrated theory of knowledge and experience; it becomes a splintered phenomenon which maintains the illusion that it exists in isolation from other institutions.

While universal rationality may be wrong-headed or incomplete, irrationality, though it exists in every so-called rational culture is extremely threatening. It is clear that the equation of rationality with good and irrationality with evil in the Western theory and practice of law is uncontested. Unless there is a balance in a culture between these opposing archetypes, the culture will heat up and destroy itself. Any culture which becomes overly rationalist in concept or design is potentially dangerous.

The conclusion is that the task for today "is one of restructuring history, of striking the delicate balance between rational law and psychology". This theme is well picked up in most of the extracts included in the book and particularly in those such as the Denning extract from *The Changing Law* and the Dodds extract from *The Greeks and the Irrational* headed "A Fear of Freedom". The themes are echoed locally too in the thinking of the late Professor Quentin-Baxter whose view was that the law was not something technical and separate: "The role of intelligence", he said, "is not to frustrate instinct" but to inform it.

The *Western Idea of Law* presents the lawyer of the 1980s with a great deal of food for thought.

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Woodhouse, A. J. Bank failure, the government and the trustee banks. R

BODIES CORPORATE AND UNINCORPORATE

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Martin, D. The companies police : the commercial affairs division and section 9A of the Companies Act 1955. R

Rodgers, M. The incorporation of legal partnerships. R

Schuriche, U. S. The position of secured and preferential creditors in court ordered winding ups of private companies and its significance for the insolvency law systems in force : a comparison between New Zealand and West Germany. T

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CONSTITUTIONAL LAW

Mataitoga, I. U. Judicial interpretation and the Bill of Rights in some South Pacific islands constitutions. R

L = Legal Writing for LL.B. (Honours).

R = Research paper prepared in the LL.M. programme.

T = LL.M. thesis.

CONTRACT

- Falkner, R. Government building and civil engineering construction contracts. T
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COURTS AND PROCEDURE

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