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**MODERN
LAND LAW**

— SIXTH EDITION —

MARK P. THOMPSON & MARTIN GEORGE



Thompson's Modern Land Law

Sixth Edition

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THOMPSON'S MODERN LAND LAW

To my wife, Kathy

Preface

It is now sixteen years since I wrote the Preface to the first edition of this book and I am delighted that it has proved to be sufficiently successful to justify a sixth edition. A lot has happened since this book was first written and, indeed, since the fifth edition was published in 2012. As this is the last edition which I shall be involved in writing, it seems fitting to reflect on what I have sought to achieve with this book.

From the start, I have sought to give a critical exposition of the central principles of English land law and to discuss the various policy issues underlying them. In so doing, I have not attempted to give a comprehensive account of the subject. Instead, the coverage has focused on those areas which are most commonly encountered in modern land law courses. The aim has been to provide an in-depth and detailed analysis of the law itself, and also to consider the fundamental social tensions which the law seeks to resolve. To do this requires a close analysis of the primary sources, as well as reference to and engagement with the extensive academic literature. My intention has been to facilitate the understanding of a complex and important subject and to stimulate the reader to think critically about it, both in terms of what the law actually is and, importantly, what it should be. These questions raise various difficulties and different people will have different views on both elements. An informed discussion of them is what lies at the heart of reading law at university. I have always hoped that this book will make a contribution to that discussion.

For a number of reasons the gap between the appearance of this edition and its predecessor is longer than I had originally intended, and a lot has happened in that time. First, this is no longer a work of sole authorship. I have been fortunate that my friend and colleague Martin George has joined me in the writing of this new edition. I have found this to be a very stimulating collaboration. We have discussed at length the evolution of the book and, as a result, there are a number of changes to this edition. Although Martin and I agreed on who would take primary responsibility for individual chapters, in each case the final version was agreed between us and we take joint responsibility for the work as a whole. The only exception is this Preface, which we agreed that I would write, as it is my last.

Among the changes to this edition, I would draw attention to the inclusion in the opening chapter of some philosophical material dealing with the nature of property and the substantial recasting of Chapter 7 on adverse possession, which has had to accommodate the effect on this subject of the criminalization of residential squatting. I would also point to the considerable rewriting which has taken place of both Chapter 5 on registration of title and the important topic of vitiating factors in Chapter 12 on mortgages. These changes have come about due in part to developments in the law itself, but also as a result of new thoughts about existing material.

In addition to these general and structural changes, there have been some significant developments in the law since the last edition, and this Preface can do no more than point to some of the highlights. First, in the field of human rights—a topic which received only a cursory treatment in the first edition—the Supreme Court in *McDonald v. McDonald* took the welcome view that the European Convention on Human Rights did not apply to possession actions brought by private landowners but was confined to actions brought by public authorities. It also, in *Sims v. Dacorum Borough Council*, resisted various siren calls to the contrary and held that the long-established principles relating to joint tenants and notices to quit were Convention compliant. The result is that, while the Convention principles are

important in regulating the behaviour of public bodies, they will have little direct impact on private landowners. There have also been a number of important decisions pertaining to fundamental principles of registration of title, most notably, *Scott v. Southern Pacific Mortgages Ltd*, *Gold Harp Properties v. Macleod*, and *Swift v. Chief Land Registrar*. In proprietary estoppel, the difficulties in quantifying the remedy continue to exercise judicial minds, an issue which was very apparent in *Davies v. Davies*.

As lamented in the previous edition, the efforts of the House of Lords in *Stack v. Dowden* and the Supreme Court in *Jones v. Kernott* have signally failed to bring coherence to an important area of law, that of the acquisition of an interest in the family home; a failure made all the more evident by the ongoing struggles of the courts to interpret and apply what was said in those cases. We analyse those struggles in a new section of Chapter 9. It is hard to defend a position where, in a very important area of law, it is difficult to state with any degree of confidence how pretty basic questions as to who owns a house and in what proportions might be answered. This uncertainty in the law is conducive to the value of the parties' principal asset, their home, being used up to finance litigation to resolve those questions. This, sadly, represents a perfect example of the dangers of distorting orthodox principles in an attempt to achieve judicial reform of an area where Parliament has refused to tread.

In producing this edition, I have incurred a number of debts of gratitude, which I am delighted to acknowledge. First, of course, I am very grateful to Martin for his very substantial contribution to this edition, and for his agreement to take responsibility for the production of future editions of this book. I am confident that in his capable hands it will continue to evolve and make a significant contribution to the academic discourse pertaining to this subject. Speaking for us both, I would also like to thank a number of people at OUP. We are grateful to Deborah Renshaw for her sterling work as copy editor and to Liliane Johnston for overseeing the overall production of the book safely through to completion. We are also particularly grateful to Felicity Boughton who has been involved in the production of this edition from the outset and has been a constant source of encouragement and advice. Above all, however, I would like to record my enormous gratitude to my wife, Kathy.

Throughout what has been a difficult couple of years, Kathy has been a tower of strength. Without her love and encouragement, I would not have been able to collaborate fully with Martin in the production of this edition. My debt to her is immense and, as a small token of my love and gratitude, this edition is dedicated to her.

Mark P. Thompson
28 March 2017

Postscript

Mark Thompson passed away on 13 June 2017, not long after we completed our work on this new edition. I shall miss him very much.

Martin George
14 June 2017

Acknowledgements

Grateful acknowledgement is made to Elizabeth Beaufrere for permission to use *Grove Road, Bow*, c.1930, by Harold Steggles on the front cover of this book. Special thanks also go to Alan Waltham for providing us with this painting and the following biography about the artist.

Harold Percy Steggles (8 February 1911 to 13 October 1971)

Harold was born in Highbury, the second son of Walter and Annie Elizabeth Steggles. In his early life the family moved quite frequently but eventually settled in Ilford in the early 1920s, which is where Harold completed his schooling. Aged just fourteen, he started work at Messrs Seaton Taylor, Solicitors, 5 Gray's Inn Square in late February in 1925. He spent his entire career with the company but sadly developed leukaemia when he was only 55 and he died in 1971, aged just 60.

In May 1925 he and his elder brother Walter enrolled at the evening art classes at Bethnal Green Men's Institute at Wolverley Street under the tutelage of Mr. O'Connor and later, John Cooper. In 1927 Cooper transferred to the Bromley & Bow Evening Institute and Wally and Harold followed him there. Harold exhibited at the East London Art Club exhibition at the Whitechapel Gallery in 1928 and then in all eight of the annual East London Group exhibitions from 1929 until 1936 at the prestigious Alex Reid & Lefevre Galleries at 1a King Street in Mayfair. Harold became a leading member of the Group contributing 70 paintings for exhibition during this time and his work was always highly sought after at these exhibitions. Jack Beddington at Shell, Mex & BP Ltd commissioned him to produce an image for the iconic Shell poster series in 1934. Five examples of his work are held in public collections.

After World War Two Harold's working and family life meant that he rarely painted, although in his later years he was encouraged by his daughter to take up his brushes once more as a form of therapy during his illness. His work still remains highly sought after and his style is instantly recognizable.

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