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Crossley
Vaines
on
Personal
Property

FIFTH EDITION

BUTTERWORTHS

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PERSONAL PROPERTY

FIFTH EDITION

BY

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PERSONAL
PROPERTY

PREFACE

This is the first edition of this work not prepared by the author. Mr. Crossley Vaines' commitments are such that he felt unable to undertake this new edition. Accordingly he asked the editors to assume control. We were very happy to do so.

We have tried to continue the author's intention of providing a book which is basically a students' textbook, but which may, at the same time . . . " be of use to practitioners with regard to such questions of title as quite often arise in County Court cases, not only at short notice but where collections of more detailed books are inaccessible to the advocate ". We have also continued the policy of incorporating Canadian cases, as we understand the book is popular in Canada.

Two problems confronted us in preparing the present edition. First, we had to decide whether to exclude any of the existing material. The main candidates for excision appeared to be the early chapters on the theory of ownership and possession. Many books on Personal Property do not find a discussion of this nature necessary. However, in our view some analysis of the " jurisprudence " of the subject supplies a valuable aid to understanding the later chapters. For this reason, and in the face of those who would claim such a discussion is old fashioned, we have decided to retain these early chapters.

Secondly, we debated whether to incorporate any additional subjects, for instance insurance, patents, trademarks, etc. The inclusion of topics under the general rubric of Personal Property is always a matter of choice, and beyond the obvious subjects like Sale of Goods, Hire-Purchase and the *Nemo Dat* rule the books diverge considerably. We arrived firmly at the conclusion that insurance and industrial property are such specialised subjects, and are so adequately dealt with elsewhere, that their inclusion in a book of so general a nature as this was not warranted.

This is not to say, however, that we have contented ourselves with merely up-dating the existing text. In several places a radical re-organisation or rewriting of the text has been found necessary. We have, for example, condensed the sections on s. 17 of the Married Women's Property Act, 1882 (recent decisions having resolved many of the difficulties referred to in the last edition) and Transfer on Death, much of the material on which was more suited to a book on Succession. The chapter on hire-purchase has been re-organised and a section on agency added to cater for the decision of the House of Lords in *Branwhite v. Worcester Works Finance, Ltd.* There is a new short chapter on hire which includes a summary of the Crowther Committee's proposals in relation to leasing and rental agreements. Anticipating legislation following the Crowther Report, we held back delivery of the manuscript in the expectation that a Lending and Security Act or a Consumer Sale and Loan Act (or both) would be forecast in the Queen's Speech in November, 1972. Unfortunately, these reforms do not appear pending.* In the event, we have added a short Appendix summarising the Committee's proposals; another which outlines the Fair Trading Bill; and a third explaining the changes made to the law of hire-purchase and the sale of goods by the Supply of Goods (Implied Terms) Act 1973, which we realised would not reach its final form as a statute until after the present edition went to press.

* See over.

Among the recent decisions to which especial consideration has been given are *Worcester Works Finance, Ltd. v. Cooden*; *Lewis v. Averay*; *Ashington Piggeries, Ltd. v. Christopher Hill, Ltd.*; *Belvoir Finance Co., Ltd. v. Stapleton*; *Astley Industrial Trust, Ltd. v. Miller*; *Moffatt v. Kazana*; *United Dominions Trust, Ltd. v. Eagle Air Services, Ltd.*; and *Eshun v. Mercantile Credit Co., Ltd.* In the chapter on sale of goods we have also incorporated a brief account of the main aspects of the Trade Descriptions Act 1968. There is also an account of the Unsolicited Goods and Services Act 1971. In the result, the present edition is 66 pages longer than the previous edition.

We should like to thank Mr. Crossley Vaines for the interest he has shown in our efforts and the help he has given us. We also wish to record our appreciation of the advice and assistance of Professor A. H. Hudson, Dean of the Faculty of Law, Liverpool University, who was closely associated with the last edition and who has most generously given us the benefit of his knowledge and experience of Commercial Law. Our sincere thanks are also due to Mr. N. F. Riddle, Barrister, who has revised Part V; to Mr. B. H. Leveson, Barrister, for some useful ideas and criticisms on the text; to Miss R. Goode for her invaluable assistance in preparing the manuscript; and to Mrs. J. Lenton and Mrs. N. Weeks for their sterling efforts in typing (and deciphering) the substantial amendments we have made.

We have attempted to state the law as at 1st December 1972.

E.L.G.T.
N.E.P.

Liverpool, 1973.

* Since writing this it now seems that a Consumer Sale and Loan Act may be forthcoming later this year. Special attention should therefore be given to the note on the Crowther Report in Appendix B.

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