

situation where an owner claims both higher land value based on a different use, and disturbance of the actual use. In *Standard Fuel Co. v. Toronto Terminals Railway*,<sup>2</sup> the Judicial Committee of the Privy Council laid down the sensible rule that the owner could not have both. In *Re Coquitlam S.D. No. 43 Expropriation*<sup>3</sup> the court allowed this very thing to happen, by considering potential redevelopment as postponed five years—a dangerous precedent. In his section dealing with this matter<sup>4</sup> the author has cited neither of these cases; nor has he dealt with the possible inconsistency inherent in the process. Further illustrations could be given, especially with respect to compensation for leasehold interests. The point here being advanced is that the cataloging of legal principles alone is not sufficient. They are tools, it is true, but a manual for their proper use and maintenance should be included for the safety of the unwary.

At the same time, however, the author has continued his argument on the indemnity for forcible taking, against the decision of the Supreme Court, and has found it necessary to devote twenty pages to it—surely a disproportionate number. His suggestion that:

The owner is entitled to full compensation, and full compensation is more likely to have been achieved if the allowance for forcible taking is made,<sup>5</sup>

is perhaps the understatement of the year. It is not the fear that the individual is suffering under the present law that is troubling governments today; rather it is the certainty that the taxpayer is too often being imposed upon by trumped-up claims based on hazy legal principles. The author is entitled to his opinion of course, and more such public expression is desirable; but one might have felt inclined to read it with more appreciation had the other legal problems been treated by the author with equal concern and vigor.

It is the present reviewer's opinion that the book leaves ample room for new treatment of the subject-matter. But perhaps the foregoing is hypercritical of what is essentially a good effort. The book is useful and will be widely used, and our debt to its author will remain.

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### SALE OF GOODS

By P. S. ATIYAH. London: Sir Isaac Pitman & Sons Ltd.  
Second edition, 1963. Pp. 252. \$6.20.

When the first edition of this book appeared in 1957, the author expressed the object of stating "within a moderate compass the modern English

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2. [1935] 3 D.L.R. 657.

3. (1960) 32 W.W.R. 513.

4. P. 116.

5. P. 225.

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law of Sale of Goods." To state any complicated branch of the law (as indeed the law of Sale of Goods has become during the last twenty years of changing commercial conditions) in a moderate compass is always a difficult task if accuracy and profundity are not to be sacrificed. Mr. Atiyah attained his object well, in fact, a little too well, for if one had any great criticism of his first edition, it was that his ingenuity at times led to unnecessary complications, and he seemed unable to resist the temptation to lead his reader down provocative byways, whether profitable or not. This led to a tendency to be impatient with the law as it really was and to state the law as it should be, without always making the distinction clear. For these reasons, while the first edition could be welcomed as a stimulating and valuable work for the better student, one hesitated to recommend it to the ordinary student who might be lacking in a real grasp of the finer points of contract law.

In his preface to the second edition, however, Mr. Atiyah states that he has made "some major alterations and additions", and on the whole these have done much to make this edition a more suitable and useful book for student and practitioner alike. The book is still moderate in size (a little over 250 pages even with the new chapter on Hire Purchase Contracts) but no topic is dealt with superficially. The author possesses a remarkable gift for dealing with difficult branches of the law concisely and yet profoundly and lucidly. For example, Chapter 25 on "Rescission for Innocent Misrepresentation", which is probably one of the most vexed branches of the law of Contract and Sale of Goods is only just over three pages in length, but most of the salient points and the difficulties with which the topic is beset are clearly set out. The only notable omission in this chapter is the lack of any reference to the Law Reform Committee's Report on Innocent Misrepresentation, which was made in mid-1962 and which should therefore have been in time for inclusion in this edition. Perhaps the author could in future editions state at the end of his preface the date at which he is writing.

Since the Sale of Goods Act of Manitoba is almost a complete replica of the English Sale of Goods Act, it will be appreciated that this work will be of great help and relevance in this province. In this connection it is interesting to note that Mr. Atiyah describes the old English section 4 (which corresponds to section 6 of the Manitoba Act) requiring certain formalities for contracts of Sale of Goods of over £10 in value (\$50.00 in Manitoba) as a "blot on our jurisprudence" and welcomes its repeal in England in 1954 by the Law Reform (Enforcement of Contracts) Act. Is it not time that this blot was removed too in Manitoba, so that all contracts for the Sale of Goods could be made by word of mouth, irrespective of the value of goods? In any event, with the decrease in the value of money, what significance is there now in the old \$50.00 dividing line between verbal and written contracts?

It is interesting to observe that shortly after the appearance of this new edition there also appeared a new edition of the famous *Chalmers*,

which still retains the old form of setting out the text of the Act with the appropriate commentaries and footnotes section by section. Both methods have their advantages as well as their drawbacks. Mr. Atiyah's method is certainly the more stimulating, but it may possibly be somewhat confusing to the uninitiated by reason of his rearrangement of the subject. It might be helpful if future editions could contain the text of the Act itself as an appendix. Be that as it may, Mr. Atiyah has certainly put the commercial legal community in his debt by producing a book in narrative form on this important subject at a time when there is no other such modern text available, and when the standard work, *Benjamin on Sale*, has been out of print for so long.

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### THE GOVERNMENT OF MANITOBA

By M. S. DONNELLY. Toronto: University of Toronto Press.  
1963. Pp. 185. \$6.00.

The line dividing constitutional law from political science is very hard to define. In fact, I suspect that it doesn't exist. Probably these are not different "fields" at all, but simply the same subject looked at through the eyes of observers with different types of training. And since there is probably some truth in the frequently voiced allegation that the legal profession suffers from intellectual inbreeding, it is likely that the lawyer will benefit from occasional exposure to the political scientist's point of view. (Indeed, it is even possible that the converse is also true, since the fortifications surrounding other disciplines appear to the reviewer as formidable as those which isolate the law, but it is hardly the place of a lawyer to say so.) Manitoba lawyers will find Professor Donnelly's excellent little book, *The Government of Manitoba*, particularly valuable.

The book is a concise account of the growth of the principal institutions of government in Manitoba from pre-Confederation times to the present day. The historical side of the study amounts to a capsule history of the province, which I think every reader will find interesting. Perhaps of even more appeal to the lawyer is the description of the modern organs of government. A great deal of the information, of course, will be familiar to him, but I think that he will also encounter much that is not. Those who are actively engaged in politics will be interested in the recurring idea, apparently the theme of the study, that vigorous inter-party competition is essential to good government, and that the period of coalition and non-

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