THE MODERN LAW OF TRUSTS,
By David R. Parker and Anthony R. Mellows;
(Sweet & Maxwell: London), 1966; pp. xxv, 358 and 10 (index).

This new students' textbook on the law of trusts was published in
1966, and your reviewer has therefore had the opportunity to use the
book for two and a half years. As the title indicates, the emphasis is
on the modern aspects of the law of trusts, and considerable attention
is given to the purposes for which trusts are now used. Especially wel-
come is the prominence given to the impact of taxation, now a most
relevant consideration in framing a trust; though Canadian readers
must, of course, take great care not to be misled by peculiarly English
tax provisions in working through the financial examples usefully pro-
vided in this book.

The book is written in an attractive, readable style, and there can
be no doubt that it is in general competently done. But in the end your
reviewer has mixed feelings about it. In view of its 358 pages (though
the pages are small) it is in many places irritatingly superficial and
sometimes inaccurate. Perhaps the following examples will suffice to
justify the complaint.

Superficiality. At page 7 the very difficult and not entirely academic
problem of the nature of the beneficiary's interest is treated in nine
lines; at page 15 there is no mention of the two possible tests for cer-
tainty in a power which can be extracted from Re Gestetner1 and which
have now been canvassed in Re Gulbenkian's Settlement2; at page 22,
on the distinction between personal representatives and trustees, Com-
missioner of Stamp Duties for Queensland v. Livingston3 is of central
importance; at page 34 the discussion of the important and difficult
case of Oughtred v. I.R.C.4 is poor, and the statement that the majority
held s. 53(1)(c), Law of Property Act 1925 (equivalent to s. 9, Statute
of Frauds) is wrong—moreover, it is pitifully inadequate to relegate
Vandervell v. I.R.C.5 to a footnote with a "see also"; at pages 55-56,
on covenants in favour of volunteers, the discussion of Re Kay's Settle-
ment6 is poor, and it is not true that in that case the assistance of a
court of equity was invoked—and at page 58, on the same subject, if
the trust explanation of Fletcher v. Fletcher7 is correct, it is not
anomalous, but merely unpredictable when a trust will be implied;
at page 72 et seq., (i) the exposition of the common law rule against

1. [1953] Ch. 672.
5. [1965] 2 W.L.R. 1083.
6. [1939] Ch. 329.
7. (1844) 4 Hare 67.
perpetuities in the introduction is confusing, because there is at that stage no adequate explanation of the requirement of certainty of vesting; (ii) in the discussion of the Perpetuities and Accumulations Act 1964 it is misleading to state the age-reducing provision before the wait and see provision; at page 130 et seq., on non-charitable purpose trusts, (i) Re Dean\textsuperscript{8} is probably wrongly decided; (ii) there is no reference to Leahy v. A.G. for New South Wales\textsuperscript{9}; (iii) the Perpetuities and Accumulations Act 1964 does not make Re Chardon\textsuperscript{10} academic, because the Act is not retrospective; at page 136 et seq., on charities, (i) there is no discussion of the difficulties caused by Oppenheim v. Tobacco Securities Trust\textsuperscript{11}; (ii) it is clear from Re Scarisbrick\textsuperscript{12} that even the poverty exception requires an element of public benefit to distinguish a purely private trust; (iii) there is no proper discussion of the leading cases of I.R.C. v. Baddeley\textsuperscript{13} and Williams’ Trustees v. I.R.C.\textsuperscript{14}; (iv) there is no mention of hospitals under head (4) of Lord Macnaghten’s classification. And so on.

Inaccuracy. At pages 4-5, example 9 is wrong, because estate duty would be payable on the whole capital on the death of the life tenant; at page 9, can it ever be fraud to fail to exercise a power? at pages 23-24, Harvell v. Foster\textsuperscript{15} is perfectly consistent with Re Ponder\textsuperscript{16} etc.; at pages 46-47, the rule in Shelley’s case\textsuperscript{17} is not a rule of construction; at page 239, the statement that a beneficiary is personally liable to indemnify “where the trustee is a bare trustee” is either wrong or dangerously misleading—the statement should be “where the trustee is trustee for a sole beneficiary who is sui juris,” citing Hardoon v. Belilios.\textsuperscript{18} And so on.

For a monograph of this length, intended for use in universities, the faults are serious.

Only eighteen misprints were noticed, better than average for a first edition.

All in all, the book deserves a qualified welcome. Its chief virtues are readability and modernity; its chief defects are superficiality and inaccuracy, and it is hoped that attention will be paid to these matters in future editions.

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8. (1899) 41 Ch. D. 552.
12. [1951] Ch. 622.
16. [1921] 2 Ch. 59.
17. (1561) 1 Co. Rep. 88b.

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