

COMMERCIAL AND CONSUMER TRANSACTIONS: CASES, TEXT AND MATERIALS, edited by J.S. Ziegel and B. Geva, Emond-Montgomery Limited, 1981, pp. xlv and 1,230.

As is obvious from the title of this work, the intended scope of coverage is indeed wide. After one examines this casebook there is little doubt that it delivers what is promised. The major components of this area of the law are dealt with in a manner which in fact provides the reader with much more than a casebook. Virtually every topic canvassed is developed through careful integration of materials taken from various sources. The reader is led through the material in a manner affording a chance to glean a historical perspective, an understanding of the current state of the law, an appreciation of problem areas, and a prevision of likely development.

Part I of the book deals with sales transactions and affords numerous examples of the integrated approach taken. Chapter 10, which deals broadly with property aspects of the contract of sale, offers a good illustration. After dealing with transfer of title between the parties to the contract, the *nemo dat* rule and exceptions thereto are canvassed. An introductory note succinctly lists the most important Ontario exceptions to the rule through a direct excerpt from the 1979 Ontario Law Reform Commission Report on Sale of Goods.<sup>1</sup> The reader is then offered a suggested format for analysis of the myriad of exceptions to the rule. This is followed by a specific reference to the "seller in possession" exception. The judgment of Lord Pearce in the leading Privy Council decision of *Pacific Motor Auctions Pty., Ltd. v. Motor Credits (Hire Finance), Ltd.*, [1965] A.C. 867, then appears in a mildly edited form. This is followed by a number of notes which refer the interested reader to several articles dealing with related topics and pose questions concerning the decision. The discussion of the "seller in possession" concept is concluded with a note on Bills of Sale legislation and its relationship to the problem. This includes a summary of the underlying reasons for such legislation, its development and an overview of the effect of passage of the Personal Property Security Act.<sup>2</sup> The note concludes by illustrating weaknesses of the Bills of Sale legislation and refers to the O.L.R.C.'s Sales Report recommendations. The reader is thus taken by the hand through the subject area, thereby viewing its development, present state and likely future direction. The law student especially stands to gain a great deal through this opportunity without the necessity of looking too far beyond the book itself. If anything negative can be said of the book's approach it might be that its thoroughness leaves little necessity for the reader to exercise research skills as they apply to this area of the law. It is unlikely that students will feel compelled to converge upon the library since this book leaves so few topics in an undeveloped state.

In dealing with sales transactions, certain topics not traditionally included have been afforded coverage. These include manufacturer's liability for defective goods and uncertainty of price and other terms. The result, as acknowledged in the preface by Professors Ziegel and Geva, is the inclusion of several cases that also appear in many contract (and

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1. Ontario Law Reform Commission, *Report on Sale of Goods* (1979) 3 v..  
2. R.S.O. 1980, c. 375.

perhaps tort) casebooks.<sup>3</sup> Such inclusion does have the advantage of providing a concrete reminder that the law does not operate strictly within its traditional compartments. The instructor is left with the option of using or omitting these peripheral materials, perhaps after examination of the coverage afforded these topics in the first year curriculum. Any practical difficulties arising from such repetition are outweighed by the resulting harmonious integration of these concepts with more traditional commercial law issues.

Both the case selection and editing are excellent. Use of the *Ashington Piggeries*<sup>4</sup> decision provides a good example of effective editing. Excerpts from the decision appear in relation to both the implied condition of correspondence with description and the implied condition of fitness. The result is an accurate and efficient presentation of the essence of this very important but lengthy decision.

One omission relating to the "sales" portion of the book is perhaps worthy of mention. Since the headings in the casebook often refer directly to section numbers of the Ontario Sale of Goods Act,<sup>5</sup> a Table of Concordance of Canadian Sale of Goods Acts would be useful to the non-Ontario reader. There is a U.K.-Ontario table, but this offers little assistance to readers from other provinces.

Part II of the book is entitled "Payment Mechanisms". The first offering is a brief glance at the historical foundation of the law of negotiable instruments and the events leading up to codification. An overview of the scope and scheme of the Bills of Exchange Act<sup>6</sup> is offered as well as a note on some constitutional considerations. Specimens of the most commonly used negotiable instruments are presented. The major substantive issues in this area are then examined with the same exhaustive and integrated approach adopted in the first portion of the book. Major topics are usually prefaced with introductory notes. The leading cases are often followed by notes and questions. As both Professors Ziegel and Geva have written widely in the various areas, excerpts from their own articles have often been inserted at strategic points. Excerpts from leading textbooks<sup>7</sup> appear where appropriate. The use of such article and text excerpts again offers a much greater potential for coming to grips with some of the difficult issues raised than would be possible by a mere reading of the leading cases. The student once again has at his fingertips a multiple-source tool for examining this area of the law. Topics such as "electronic funds transfers" and "documentary drafts and letters of credit" supplement the more traditional concepts.

The third and final part of the book deals with the financing of commercial and consumer transactions. Prior to dealing with the content and interpretation of the Personal Property Security Act,<sup>8</sup> a very short section

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3. *E.g., Hillas & Co., Ltd. v. Arcos Ltd.* (1932) 38 Com. Cas. 23, [1932] All E.R. 494, found in Ziegel & Geva at 115; *Esso Petroleum Co. Ltd. v. Mardon* [1976] 2 W.L.R. 583, [1976] 2 All E.R. 5, found in Ziegel & Geva at 132; *Rivtow Marine Ltd. v. Washington Iron Works and Walkem Machinery and Equipment Ltd.* (1973) 40 D.L.R. (3d) 530, [1974] S.C.R. 1189, found in Ziegel and Geva at 327.

4. *Ashington Piggeries Ltd. v. Christopher Hill Ltd.* [1972] A.C. 441, [1971] 1 All E.R. 847.

5. R.S.O. 1980, c. 462.

6. R.S.C. 1970, c. B-5.

7. *E.g., A.W. Rogers, Falconbridge on Banking and Bills of Exchange* (7th ed. 1969).

8. *Supra* n. 2.

is devoted to the evolution of security devices in Canadian law. In view of the very thorough nature of the book's coverage, this is one area that could have been expanded. At the date of publication of the casebook, only three provinces and the Yukon Territory had adopted such legislation. "Pre-P.P.S.A. law" still represents the position in most Canadian jurisdictions. Although certain jurisdictions are entering what might be termed a 'transitional period', others have not even reached this stage. The study of commercial law in such jurisdictions requires a basic understanding of the traditional methods of secured financing complete with their many shortcomings. Only then can the need for a unified approach be truly appreciated. This section of the book does offer a brief overview of the development of security devices in Canadian law and a short discussion of some major weaknesses. Greater detail to these topics, however, would have been helpful. It could provide the readers in "P.P.S.A." jurisdictions with a greater appreciation of the shortcomings of "Pre-P.P.S.A. law". This could in turn produce a greater insight into the effectiveness of the new legislation in dealing with such problems. Readers could also acquire a stronger foundation for studying the integrated framework offered by the Personal Property Security Act. At this crucial stage of development, this type of transitional material would be particularly useful.

Once the substance of the Personal Property Security Act is tackled, it receives the thorough treatment so evident throughout the rest of the book. Again, cases, articles and notes are well integrated and present a solid foundation for studying the area.

In conclusion, this book will no doubt prove a very useful teaching aid. Its structure affords the user great flexibility in catering to his individual needs. It may be used as the major source of material in a basic course in Commercial Transactions, yet is also conducive to use in 'component' courses such as Negotiable Instruments Law, where such courses are taught separately. Although in certain jurisdictions there will be a need to supplement the book with certain other materials, it should prove a most worthy asset in the hands of instructor and student alike.

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