some of the most important ILO conventions. In Australia, even state governments with trade union backed Labour parties in power have refused to approve ILO Conventions which have been acceptable to less trade union minded governments. In part this is the product of States' rights feelings but it also reflects the fact that the work of the ILO often receives meager publicity, its importance and its workings being little understood in many parts of the world.

Freedom of association is amongst the most important of civil liberties and this volume stands out as a major contribution to contemporary international law by showing the intrinsic importance of trade union freedom in any scheme protecting fundamental freedoms on a worldwide basis. It shows, too, that the practical techniques developed by ILO are worthy of emulation by other agencies concerned with international law problems.

ALEX C. CASTLES*

* Senior Lecturer-in-Law, University of Adelaide, South Australia.

LAWSON, F. H. *Introduction to the Law of Property*. Oxford: The Clarendon Press, 1958. Pp. xii, 200.

This is an exhilarating book. It is simple and unpretentious, yet profound and erudite. The intelligent layman and the beginning law student, for whom it was written, should find it clear and stimulating, and the seasoned lawyer may well be astonished at how much his understanding of the property law has been enriched by reading it.

This is a book on the formal legal structure through which the institution of property is given effect today in England. It is in no sense a manual, but rather an introductory exposition of the science of English property law. Professor Lawson succeeds exceptionally well in explaining how the English property law serves the substantive purpose of the utilization and distribution of wealth in modern English society, and this he does without discussing its historical origins and modes of development. The book is, as the author states, analytical and functional, but not the least historical. The English property law is presented as if it were a phenomenon simply of the present, and its significance is explained in terms of its operation and effect rather than its genesis and growth. Of course, Professor Lawson acknowledges the importance of an acquaintance with the history of English property law for the purpose of appreciating how its particular formal structure came to be, but he believes that this learning can be acquired best after the form and function of the modern property law are understood.

Professor Lawson achieves great clarity and precision in the presentation of his subject by penetrating beneath the technical structure of the law to express its meaning. For example, on the distinction between law and equity, he explains that:

> "Historically it is a distinction between rights recognized and remedies afforded by courts exercising different jurisdictions, on the one hand the old Courts of Common Law and on the other the Chancellor. The Chancellor exercised what was in effect a supplementary jurisdiction, assuming at every point the existence of the common law administered

by the Common Law Courts, but making good, as far as possible, its deficiencies. Thus equity never became a coherent system, though it may fairly be said that not only is the common law taken by itself a coherent system, but common law and equity taken together make a coherent system. This is more evident now that both are administered in the same courts and both common law and equitable remedies can be obtained in the same proceedings."[1]

Similarly, in explaining why English law has abolished joint tenancy except for trustees, Professor Lawson writes:

"The right of survivorship at first sight gives such unfair results that it is difficult to see how anybody should want to give property in joint tenancy or joint ownership. A moment's reflection will, however, show that joint tenancy or ownership is an extremely convenient form of ownership for trustees. For the ownership of trustees is for the purpose of management and not enjoyment. Now it is only where a number of persons have concurrent rights to enjoy a thing that the right of survivorship produces unfair results; on the other hand, it is very convenient that the interest of one of a number of managers should not devolve on those who succeed him on death, but should vest automatically in the survivors. If one looks upon the trustees as a committee, all that has happened is that a member of the committee has disappeared, and the other carry on as if he were still there, taking steps to add to their number if it becomes too small. Thus, joint tenancy or joint ownership is appropriate to management, tenancy or ownership in common to beneficial enjoyment of property."[2]

Again, in noting how the trust permits a separation of the management and enjoyment of property, he states:

"It is also obvious that there must be some personal relation between the manager and the beneficiary, under which the former may be made liable to the latter if he wrongfully mismanages the property. That relation is in English law called a trust. The manager is *trustee* for the beneficiary. But the question still remains, what are the relations of trustee and beneficiary to the thing held in trust? It would have been possible to say either that the trustee owns the property but is under a duty to manage it for the benefit of the beneficiary, who has nothing more than a correlative personal right against the trustee, or on the contrary that the beneficiary owns the property but gives full powers of management to the trustee, who stands in no direct relation to the property but acts merely by delegation of property rights vested in the beneficiary. English law has taken neither course, but has in effect said that both trustee and beneficiary own the property in different ways, or more accurately, that neither owns the property in the strict Roman sense of the term ownership, but each owns a different interest in it, called respectively the legal estate and the equitable interest. It says that to ask in such a situation who owns the physical object is an improper question,

[1] P. 41.
[2] P. 64.

just as it would be in
entitled to the land a

In the writer's opinion, t
some measure at least ste
law. Accustomed to the
Romance laws have given
of order, he is more capa
law than jurists whose e
systematization.

A word of caution mus
has written an introduct
certainly intended it prim
law has advanced so far b
the first book for student
students and lawyers wh
traditional Anglo-America
find reading it an exceptic
ence.

It may be noted, too, th
Law Series, intended for
The series has an auspici

[3] P. 77.
* Professor of Law, Louisia

WAGNER, W. J. *The Feder*
& Co., 1959. Pp. 390.

Ideas and practices deve
and a half concerning the
tionships between the cent
ponent members of a fede
governments to one anothe
of other federations in the
by the achievement of ou
exports of this country. Wh
of the diffusion of certain
as regards the example set
worthy achievements of th
taining ever since the adop
and, in many other ways, s
a century in the past) regu
the praise of writers on
our experience with federa
have been made. No thoug
solved all the problems in
from the experience of oth
that again and again in re

just as it would be improper to ask whether a tenant for life or a person entitled to the land after his death owned the land itself."[3]

In the writer's opinion, this gift for clear, non-technical expression must in some measure at least stem from Professor Lawson's labors in comparative law. Accustomed to the various ways in which the Anglo-American and Romance laws have given different technical formulations to similar problems of order, he is more capable of going to the non-technical substance of the law than jurists whose experience with law is limited to one mode of its systematization.

A word of caution must be given to American readers. Professor Lawson has written an introduction to English property law as it is today and certainly intended it primarily for English readers. Modern English property law has advanced so far beyond the American that the book cannot serve as the first book for students of American property law, but those American students and lawyers who are familiar with the basic framework of the traditional Anglo-American property law and that of the English reforms will find reading it an exceptionally enlightening and thought-provoking experience.

It may be noted, too, that this book is the first of the projected Clarendon Law Series, intended for "the law student, and the inquiring layman also." The series has an auspicious beginning.

ROBERT A. PASCAL*

[3] p. 77.

* Professor of Law, Louisiana State University.

WAGNER, W. J. *The Federal States and Their Judiciary.* The Hague: Mouton & Co., 1959. Pp. 390.

Ideas and practices developed in the United States during the past century and a half concerning the role of the federal judiciary in regulating the relationships between the central government and the governments of the component members of a federation, as well as the relationships of the member governments to one another, have had extensive influence on the institutions of other federations in the rest of the world. Particularly the influence exerted by the achievement of our federal judiciary is one of the most significant exports of this country. While some of us may regard with dismay the effects of the diffusion of certain aspects of our culture, we have no cause for shame as regards the example set by our federal judiciary. For example, the noteworthy achievements of the Supreme Court of the United States in maintaining ever since the adoption of the Constitution a vast area of free trade and, in many other ways, successfully (except for the Civil War now nearly a century in the past) regulating and solving interstate conflicts, have evoked the praise of writers on public law in other lands. On the other hand, our experience with federal courts has not been free of blemish. Blunders have been made. No thoughtful person would seriously contend that we have solved all the problems involving a federal judiciary. We can and do profit from the experience of other nations. Readers of the U.S. Reports will recall that again and again in recent years the Supreme Court has cited in cases

LAWSON (Prof.) 1960

The American Journal of COMPARATIVE LAW

VOLUME IX 1960 NUMBERS I-IV

CONTENTS

ARTICLES

COMMENTS