

## **PROPERTY & SECURITY: SELECTED ESSAYS**

*Property & Security: Selected Essays*, by L B Moses, B Edgeworth and C Sherry (eds), Thomson Reuters, Sydney, 2010, ISBN 9780455227573: 290 pages + xvi pages (tables). Softcover \$95.00.

This book contains a series of essays on property law and the law affecting security instruments, which were originally presented to the 9th Australasian Law Teachers' Conference, held at the University of New South Wales in April 2009. About 50% of the essays are written by members of the staff of the University.

The book contains a mixture of black letter law essays and theoretical musings. The black letter law essays delve into property as a concept, concentrating on the two most litigated areas of property law in recent years: (1) limitations of the Torrens system in dealing with indefeasibility particularly with (a) the problem of forged mortgages and (b) statutory exceptions; and (2) easements.

The first essay in the book is by Professor Keith Mason, formerly President of the New South Wales Court of Appeal. The professor is able to make remarks about aspects of the law and court system that were denied him as a practising judge and his essay makes interesting reading for that reason as well as its content.

Patricia Lane's essay, "Indefeasibility for What?", picking up on a common catchphrase used in forged "all money" mortgage cases, is a good balanced presentation of the problems that arise where it is alleged that an all money mortgage which has obtained registration, is forged. She analyses the three issues that will probably arise: (a) the extent of indefeasibility protection to the instrument; (b) what aspects are given indefeasibility; and (c) as a matter of contractual interpretation, what moneys are secured by the registered instrument.

Other essays deal with the social aspects of so-called "predatory lending" and the remedies available to both mortgagee and mortgagor where a fraudster has escaped with the proceeds obtained by uttering a forged mortgage. The latter essay, by legal academic, Scott Grattan, also deals with possible actions against the solicitors who innocently assisted the fraudster and the liability of those who witnessed the forged signature.

The essays on easements focus on court-created easements under recent statutes and easements for parking.

An all round overview of the Torrens system is provided by Associate Professor Pamela O'Connor in her essay, "Top 10 Legal Questions for Registered Torrens Systems".

This is a handy collection of material directed to current issues in property law. Apart from learned discussion of the legal problems, it also includes reference to recent significant statutory amendments.

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## **SIR ALFRED STEPHEN (THIRD CHIEF JUSTICE OF NEW SOUTH WALES)**

*Sir Alfred Stephen (Third Chief Justice of New South Wales)*, by J M Bennett, Federation Press, 2009, ISBN 9781862877542: 540 pages. Hardcover \$59.95.

This book is one of a series on the lives of the early Chief Justices of the Australian States, some of which have been reviewed in previous issues of the Journal.

Sir Alfred Stephen was a member of the rather gregarious Stephen family, who were prominent in the law in England and Australia as well as the West Indies. Indeed, there was a Milner Stephen on the New South Wales Supreme Court Bench even in the 1930s.

Alfred Stephen had a long life, 1802-1894. He arrived in Hobart in January 1825. His first Australian position was as a senior Crown law officer in Tasmania. His first wife died in childbirth with their ninth child. He remarried one of his first wife's best friends and fathered a further nine, making a total of 18 (nine girls and nine boys) over a 30-year period.