



1973

Book Reviews

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Recommended Citation

Thoms, William E. (1973) "Book Reviews," *North Dakota Law Review*. Vol. 50: No. 2, Article 10.
Available at: <https://commons.und.edu/ndlr/vol50/iss2/10>

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BOOK REVIEWS

FARM AND RANCH REAL ESTATE LAW, by John M. Cartwright. Lawyers Cooperative Publishing Co., Rochester, N.Y., 1972, 457 Pages, \$27.50.

In today's pattern of living it is often difficult to say where the influence of the city and its suburb ends and the independence of the rural community begins. Related legal problems bridge the boundaries.¹

In his preface, author Cartwright touches on the main problem facing his book. With more and more of the practice of law oriented toward major cities, legal educators and writers tend to obscure the problems of rural areas. The agricultural basis of the common law of property appears to be a cultural lag which impedes the settlement of residential or business property questions. On the other hand, the problems of the farmer have become more and more complex. Agricultural produce is now our most important export, and the farmer is faced with a number of land-use choices resulting from suburban sprawl and change in governmental programs. This book is an attempt to fill a void in legal literature by placing the problems concerning the agriculturist or rural attorney between two covers. Not all the matters covered here deal with real estate, nor are they all related to rural areas.

The author presents the materials in hornbook fashion, using numbered paragraphs within each chapter, and a checklist, sample forms, and a question-and-answer section following the chapter. This tends to lead to easy generalizing about complex problems; for further information the reader is referred to *American Jurisprudence* annotations and other secondary sources which, like this book, are published by Lawyers Co-operative.

The first and longest chapter is entitled "The Concept of Real Property" and has only a tenuous connection with agricultural matters.² It reads like an outline of a first-year course in real property, with particular attention to documentation of the condo-

1. J. CARTWRIGHT, *FARM & RANCH REAL ESTATE LAW* v (1972).

2. *Id.* at 1-88.

minium. Some of the author's own philosophical preferences in favor of limited government and freer use of private property are evident in this section,³ but he applies a balanced view to most of the problems he discusses. Several non-rural areas are lumped together as "suburban problems": they include zoning ordinances, condominium and co-operative ownership and anti-blockbusting ordinances.⁴ Although their connection with farms or ranches is somewhat strained, it must be remembered that today's farmer has a multiplicity of investments, may live away from the farm, and is confronted with a choice as to whether to continue to cultivate his land or utilize it for residential developments.

The best-conceived chapters are those dealing with the sale⁵ and lease⁶ of agricultural property. Oriented toward a practical solution to many of the snags which occur during the closing process, the text gives a step-by-step approach to the evaluation, title search, recordation, purchase and delivery of the deed to a farm or ranch, utilizing the device of the auxiliary contract. It touches on economic considerations of leasing, including the relative merits of a cash lease vs. sharecropping, and analyzes the operative words of farm leases. In this latter area, the text seems a bit skimpy, inasmuch as the law of landlord and tenant has taken some peculiar turns in recent years,⁷ but since most of them are related to warranties of habitability and other matters affecting residential property, the treatment is adequate for most purposes.

There is a short chapter introducing covenants and servitudes, always a difficult subject,⁸ and another short chapter which deals with land descriptions⁹ completes the exclusively real estate portion of the book.

The remainder of the book deals with farm problems concerning resources and products. Rights to crops and animals are discussed¹⁰ as is the issue of water rights¹¹ and Federal marketing regulations.¹² The battle between farmer and miner, of great interest to the Northern Plains today, with pressures mounting from fuel shortages,¹³ is not discussed, even though mineral and subsoil rights are a basic consideration in the law of property and of peculiar interest to the agronomist. The effect of environmental and other

3. *Id.* at 4, 7, 8, 22.

4. *Id.* at 30-38.

5. *Id.* at 177-241.

6. *Id.* at 89-175.

7. See Jaeger, *The Warranty of Habitability*, 47 CHI-KENT L. REV. 1 (1970).

8. Cartwright, *supra* 243-261.

9. *Id.* at 263-275.

10. *Id.* at 277-295.

11. *Id.* at 297-334.

12. *Id.* at 335-360.

13. See Grand Forks Herald, Jan. 27, 1974, at 1-B, col. 1.

restrictions on land use upon the farmer is another urgent topic which could stand a fuller treatment in this book.

The last chapter,¹⁴ concerned with marketing restrictions, is probably the weakest of the book. It contents itself with recapitulating the statutes,¹⁵ without much discussion of the rationale of market regulation, support levels, the practical effect upon farmer and consumer, or the future of farm subsidies in a consumer-conscious economy where the number and percentage of farmers is consciously dwindling. If such an issue is to be added to a discussion of real estate law (since it has a definite effect on the value of farmland) it deserves more space than the 25 pages allotted it, and a more thorough discussion.

The tone of the book makes it difficult to assess. It is designed as a reference work, but for whom? In many areas it is somewhat elementary for the practicing attorney, while in others it is rather technical for a full-time agriculturalist. Mr. Cartwright seems to have written for a hypothetical general audience located between these two professions. As a survey, however, it is a commendable effort. It is valuable as a single volume by which the rural practitioner can get a general overview of a property problem, and also as a guidebook into the *American Jurisprudence* series. Without an *Am. Jur.* set, its usefulness is limited.

Considering the paucity of modern legal literature aimed at the country lawyer, appearance of this text is to be welcomed. Its publication coincides with a national reawakening of interest in the production of food and husbanding of our natural resources. Although *Farm and Ranch Real Estate Law* fails to be an encyclopedic treatise on the legal problems of agriculture, it is a worthwhile addition to law libraries and a good introduction to the attorney who hitherto has not been exposed to a rural area and its difficulties and opportunities.

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14. CARTWRIGHT, *supra* 335-360.

15. CARTWRIGHT, *citing* Agricultural Marketing Agreement Act of 1937, 7 U.S.C. 601-673 (1970), *as amended*, (Supp. I, 1971) and (Supp. II, 1972); Agricultural Adjustment Act of 1938, 7 U.S.C. 1281-1393 (1970), *as amended*, (Supp. I, 1971) and (Supp. II, 1972); Perishable Agricultural Commodities Act of 1930, 7 U.S.C. 499 (1970), *as amended*, (Supp. II, 1972) and Packers and Stockyards Act of 1927, 7 U.S.C. 181-231 (1970), *as amended*, (Supp. I, 1971) and (Supp. II, 1972).

