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Land Law

Third Edition

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To all my students, who have taught me so much

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Preface to the Third Edition

This book is intended to be a clear and straightforward explanation of basic land law rules, a text which both introduces the subject and will be referred to during a land law course. It is only an introduction, of course, and has to gloss over many of the difficult problems presented to the law by people's dealing with land. A further aim is that the book should remove the unwarranted reputation of land law as a difficult and abstract subject. I hope to encourage students to consider the role of land law in their own world, and I wish all who read it a lasting interest in land law and its concerns.

Since the last edition, there have been two revolutionary changes in land law, both the result of Law Commission recommendations. The Landlord and Tenant (Covenants) Act 1995 abolished the test of 'touch and concern' in leases, and removed the continuing liability of the original tenant. The Trusts of Land and Appointment of Trustees Act 1996 abolished trusts for sale (and the doctrine of conversion) and strict settlements, replacing them with simple 'trusts of land' with power to sell or retain the land. Both of these major reforms will no doubt inspire a whole new line of cases for future editions: in this edition, a noticeable new feature is the Court of Appeal case law on the formality of land contracts under s.2 Law of Property (Miscellaneous Provisions) Act 1989.

Of course, the content of the subject 'Land Law' is merely a group of statutes and cases collected together as a result of historical accident and practical convenience. Outside the text books, the academic divisions between subjects are non-existent: land law is inextricably tangled with administrative and inheritance law as well as contract, tort, family law, equity and – above all – conveyancing. Most land law courses stay fairly close to the old syllabus originally devised by practitioners whose aim was to train conveyancers, and to provide a commentary on the important reforms of the 1925 legislation; even today, the need to prepare efficient conveyancers is seen as the main object of the most influential texts. As a result, the rules covered are for the most part those which concern property owners, that is, the 'haves' rather than the 'have nots'. This book covers the main areas in most courses, with the exception of future interests and the law against perpetuities.

I refer to a limited number of cases because understanding a few is of greater value to a law student than being able to drop a case-name at the end of every sentence. The number of cases referred to by land law textbooks is notorious; no one has ever been expected to remember a tenth of them. Rather than drowning in the flood of precedents, it is best to rely on a good knowledge of a few important cases which illustrate several points or difficulties with the law. There are also some pairs of cases which neatly demonstrate the working of a rule and these are useful too.

The standard forms found in many books are omitted here as these are more useful as 'live' teaching aids; in a textbook they often confuse more than they assist. On the other hand, there are figures and tables to provide alternative methods of analysis.

It will probably be noticed that 'she' and 'he' feature in alternate chapters. This method was chosen as it is no longer acceptable for women to be 'invisible men', and the 's/he' convention is clumsy and becomes very repetitive. The first chapter is in 'her' mode since 'she' won the toss!

My thanks are due to all my colleagues, and to all my land law students. The law is stated as at 1 January 1997.

KATE GREEN