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CORNELIUS J. MOYNIHAN*

It has been said time and again that land law is local law. Yet the statement is only partially true. The hard core of real property law is the same in each of our states, with the sole exception of Louisiana. The English common law with its doctrine of estates, its weird and wonderful web of future interests, its concepts of co-ownership, of easements, of adverse possession and of running covenants was a national inheritance not easily renounced. To an astonishing degree this body of the common law has remained substantially unchanged in most American jurisdictions. A radical revision of real property law such as that undertaken in England in the last forty years has not been attempted in any state. Changes there have been, of course, as the long evolutionary process continues but the number of constants is large. And even when changes have been effected by legislation there has been a noticeable tendency for other states to adopt identical or similar statutes. Variations in practice have always existed and will continue to exist, but the main body of the law does not reflect regional differences of great degree.

This substantial uniformity of doctrine, if not of practice, may help to explain my temerity in writing a foreword to a symposium on the law of real property in North Dakota. In reading the articles that make up the symposium, I was impressed not only by evidences of our common legal heritage, but also by our acquisition in recent times of similar problems. The increasing importance of the law of eminent domain, for example, is common both to

* Associate justice, Superior Court of Massachusetts; former professor of law at Boston college; author, *Introduction to the Law of Real Property, Survey of Real Property, American Law of Property.* A.B. Boston College, LL.B. Harvard.

North Dakota and my own state of Massachusetts. A year ago there were pending approximately 1,200 condemnation cases in the Massachusetts courts. Many of these cases resulted from increased highway construction. Judge Lynch's excellent article on "Jury Instructions in Eminent Domain Proceedings" in this symposium could, with a few minor changes, be given in its entirety to a Massachusetts jury.[1] It would be helpful to Massachusetts judges and lawyers, if not to North Dakota practitioners, if he were now to prepare equally clear instructions covering the capitalization of income approach to valuation of income producing property.[2]

The problem of modernizing our conveyancing system and eliminating or reducing its uncertainty and expense is one that challenges the legal profession in all states. The so-called Marketable Title Acts offer some promise of relief in this area. The adoption by North Dakota of a Marketable Record Title Act puts that state among the relatively small number of jurisdictions that have assumed the leadership in this field. Mr. Ruemmele's article on this topic explains the operation of the act and points out some of the difficulties arising under it. Whether the thorny problem of old possibilities of reverter and rights of entry attached to fees simple on condition subsequent has been solved is open to some question. In dealing with future interests of these types, precision of terminology is essential for clarity. It may be doubted whether statutory language such as "A mere possibility not coupled with an interest" is desirable in describing a possibility of reverter.[3]

Boundary litigation is likely to be more voluminous in recently settled areas than in other sections of the country, although the prevalent use in the east of description of the land by courses and distances tends to create uncertainties. Professor Beck's article in this symposium is a thorough and comprehensive treatment of the subject that should be invaluable to the practitioner. His discussion of the agreed boundary rule, in particular, should be helpful to the bar.

No discussion of an important legal topic can be complete today without some consideration of its tax aspects. The incidence of a real property tax may be local but the insatiable demand of modern government for additional revenue to meet the needs of a more complex and more highly developed society knows no state boundary lines. Dr. Koenker's article on property taxes is a thoughtful con-

1. In Massachusetts the jury is taken on a view of the land before the introduction of testimony, and the information and knowledge gained by the view is treated as evidence. Moveover, severance damages are not normally assessed separately in Massachusetts.

2. See 5 NICHOLS, EMINENT DOMAIN, § 19.23 (rev. 3d ed. 1963).

3. The case of Rowbotham v. Jackon, 68 S.D. 566, 5 N.W.2d 36 (1942), cited by Mr. Ruemmele in his article, is a good example of the use of confusing language in discussing possibilities of reverter and rights of entry for condition broken. *Land Surveys and Related Problems*, 38 IOWA L. REV. 86 (1952).

tribution to the continuing debate as to the equity and desirability of this type of tax. Although his principal concern is with the governmental and fiscal aspects of real property taxation, his emphasis on the need for improved assessing practices and procedures is significant. Nonproportional assessment of property is giving rise to increasing litigation as taxpayers seek to alleviate their burdens.

Of the two remaining papers in this symposium, one is local in orientation and the other wide ranging in scope. Mr. Sperry's article on Homesteads is of interest primarily to the local bar. On reading it, an easterner is struck by the liberal exemption provisions made for homesteads in North Dakota in contrast to the overly cautious, if not niggardly, treatment accorded them in the east. In Massachusetts, for example, the homestead is of little importance because it is limited in value to 4,000 dollars and exists only in property with respect to which a declaration of homestead has been made and recorded. It is desirable that a topic of such local interest as homestead be included for the practicing bar. So, also, despite the contrast, it is commendable that the symposium contains Professor Garbrecht's interesting and valuable survey of recent publications in the field of real property. His thoughtful comments on the different books recently published should be of assistance to the bench and bar. And the broad range of books discussed is additional evidence that land law is much more than local law.

The editors of this Review have performed a service to the legal profession of North Dakota by presenting this collection of papers. As a former teacher of real property law, I am pleased at their choice of such a topic for a symposium. And as an easterner, I am flattered at the invitation to add a few prefatory remarks.