

BOOK REVIEWS

CHALMERS' SALE OF GOODS. Fifteenth edition. By Michael Mark.
[London: Butterworths. 1967. xci + 320 pp. including index.
50s. nett.].

The popularity of the annotated edition of the Sale of Goods Act by Chalmers, the draftsman of the statute, is reflected by its having run into its fifteenth edition. The development of the case law and statute law on the subject since 1893 might well justify a major rewriting indicating the subtleties and complexities that have arisen. However, in his Preface, the present editor, Mr. Mark stated that despite suggestions, he has decided to follow his predecessors by confining his main task to giving no more than a "brief but clear exposition" of the interpretation that has been placed on each section — the reason being that otherwise the "views of the draftsman of the Act" would be lost. Brevity is not always the soul of wit nor is it always coterminous with clarity. However, Mr. Mark has done the job well.

The present edition takes account of the development of the law since its last edition in 1963. This involves excision of some old references, rearrangement both of the text as well as the footnotes. There is a welcome increase in Commonwealth references particularly in areas which have not been adjudicated upon by English courts. The relevant statutes which have affected the law on sale of goods, particularly the Hire Purchase Acts, 1964, 1965 and the Resale Prices Act, 1964 are noted. It is however somewhat disappointing that further commentary was not given to each of these statutes.

Mr. Mark attempts to examine the implications of the *Suisse Atlantique* case¹ in relation to an exemption clause in a contract for the sale of goods. He opines, at p. 59, that a suitably drafted clause may now expressly provide for the delivery of beans instead of peas though it could not go so far as exempting a failure to deliver. The distinction between a purported performance of supplying peas and a failure to deliver goods is a thin one. It is difficult to accept Mr. Mark's view that there has been performance in the former. In any case, the speeches of Lord Reid and Lord Wilberforce do not seem to ring a death knell to the substantive doctrine of fundamental breach. Although the question is one of construction, Lord Reid says: "It cannot be said as a matter of law that the resources of the English language are so limited that it is impossible to devise an exclusion clause which will apply to at least some cases of fundamental breach without being so widely drawn that it can be cut down on any ground by applying ordinary principles of construction."²

Not every statement about goods will constitute a "sale by description" under section 13 of the Sale of Goods Act. The distinction between a statement which forms part of the description under which the goods are sold and one which only constitutes a contractual term is a difficult one to draw. Mr. Mark has found a rather useful old case of *Steels & Busks v. Bleeker Bik Co.*³ which illustrates that where there is a recognised trade description, the proper test is whether the goods comply with the description by the standard generally applied and accepted in that trade.

This edition is about thirty pages longer and continues to be a helpful reference book.

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1. [1966] 2 All E.R. 61.

2. *Ibid.*, at p. 71.

3. [1956] 1 Lloyd's Rep. 228.