scholarship that architecture is a reference to Ben McFarlane's work and, indeed, McFarlane supervised the thesis which became *Possession, Relative Title, and Ownership in English Law* (p. vii). Not everyone will be familiar with the concept of property law's architecture and it should have been at least briefly sketched out both for those unfamiliar with it and so that readers could understand Rostill's interpretation of it.

That being said, the main focus of *Possession, Relative Title, and Ownership in English Law* is on the nature of title acquired by possession rather than property's architecture, or the difference between title and ownership. By examining both possession of land and possession of chattels, this work offers a counter-balance to the tendency to silo real property and personal property. So too does Rostill's close attention to case law act as a corrective to abstract theoretical accounts of property. In summary, *Possession, Relative Title, and Ownership in English Law* is a lucid, succinct and thought-provoking engagement with the foundational principles and the enduring controversies of English property law.

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Reforming Civil Procedure: The Hardest Path. By Dominic De Saulles [Oxford: Hart Publishing, 2019. xlvi + 204 pp. Hardback £55.00. ISBN 978-1-50992-590-2.]

Dominic De Saulles has given us a refreshing review of the efforts during the past century by judges and lawyers of the Common Law in both England and Wales and the US to provide a fair but uncomplicated procedure for those who seek a remedy for their civil disputes from the courts.

It is heartening to read the author's account of the efforts in the 1930s in the US to achieve an aim which 60 years later was to confront the English. He rightly opens his narrative with the sad reflection "that disappointment in the process and outcomes are writ large" (p. 1). There are many practitioners and members of the judiciary who share this view of our efforts in the 1990s. We all started with the best of intentions but De Saulles has graphically described some of the mistakes that flowed from our efforts.

In the opening to Chapter 1, "Purpose and Function" (of rules of procedure), De Saulles makes the pertinent comment with which I agree: "The Federal Civil Procedure Rules of 1938 (FCPR) were not a permanent fix. The Civil Procedure Rules 1998 (CPR) failed to achieve all that for which their promoters hoped" (p. 1). As one of the original three Assessors on the Access to Justice Enquiry (named by De Saulles as one of his "reformers"), I was anxious to provide a fairer and simpler procedure for the resolution of civil disputes than the Rules of the Supreme Court, which I believe CPR to a great extent achieved despite all the warts and pimples. Sadly, there is no contemporary record of our work on the Access to Justice Enquiry. Such minutes as were kept by the two civil servants attached to the Enquiry are possibly locked away in the vaults of Ministry of Justice. Hence we cannot emulate the history of the efforts of our American colleagues, but the initial three reformers/assessors were working judges or lawyers who had to fit the demands of this Enquiry into their ordinary judicial day's work; only Lord Woolf was given two years free of judicial commitments. Yet the Enquiry did at least approach the task in one very novel, constructive and much appreciated

innovation, namely the "away days" when the Access team (the "reformers") visited five University Centres around the country (Newcastle, Bristol, Birmingham, Cardiff and two days in London), giving practitioners, the judiciary, academics and the public and even "vexatious litigants" an opportunity to express their views without any intervention. Each day was the responsibility of the individual University to organise in its own assessment of what was needed and the success of these "away days" did vary. At Birmingham, Lord Woolf pressed into my hand his first draft of CPR's "Overriding Objective" – there was no suggestion on his part that it was other than an original concept of his own devising. I regret I gave it back to him and did not keep a copy. There was no suggestion on his part that he had sourced it from the Federal Rules or from the Arbitration Act 1996 as was later suggested.

I have no issue with the author's account of the backgrounds and results of the numerous attempts to find a solution to this question of providing the public with a fair and affordable access to the civil courts. Sadly, after the presentation of the Interim Report in the summer of 1995, there seemed to be an influx of too many other "experts" who wanted to be seen to have a say in the Enquiry and the original three Assessors to some extent were sidelined.

The most balanced early review of the success of the introduction of CPR is to be found in the collection of essays edited by Déirdre Dwyer (*The Civil Procedure Rules Ten Years On* (Oxford 2009)). Being myself the person responsible in the Queen's Bench Division with the task of encouraging case management amongst the Masters and the very experienced staff of the Central Office, the biggest handicap I encountered was the poorly financed management base, no individual clerks for the Masters, a lack of any interlinked computer support and the consequential total inability to monitor compliance.

Perhaps the worst aspect of the introduction of the Rules was the plethora of Practice Directives, and the like. The White Book of 2018, 20 years after the introduction of CPR, exceeded 7,200 pages. The good of the reforms was strangled by sheer weight of directions and protocols much loved by the Ministry of Justice, an intrusion of bureaucracy which is a common complaint these days in all walks of life. To make life a little easier, I make no apology for my own attempt to provide practitioners with the Queen's Bench Guide in 2000 and to distil into just 120 pages all that practitioners and judges needed to know in order to conduct a civil case in the Division in a book they could carry in their pocket to court. My successor, Senior Master Fontaine has bettered this with a revised Guide of just 89 pages. Less is often better than more!

Many of us believed that had Woolf stopped at the stage of the Interim Report 1995 and left all the more sophisticated regimes to follow suit at a later date, which was what eventually happened, the reforms would have succeeded to a far greater extent and have been more readily acceptable to the judiciary and practitioners.

One unforeseen but beneficial consequence of the introduction of CPR were the fortnightly residential courses of instruction given at Warwick University to circuit and district judges at the behest of the Lord Chancellor. However the Lord Chancellor could not "order" the High Court judiciary to attend and many initially at least declined to do so on the ground of their independence and perhaps their unspoken view that they should not be taught the law by district judges! Eventually they were shamed into coming to Warwick by the attendance as "students" of a number of senior members of the Court of Appeal. All who attended found the exercise worthwhile and it proved to be the precursor of the now well established Judicial College for all judges.

De Saulles's Chapter 4 on the "Unanticipated Consequences of Civil Justice Reform" should be compulsory reading for all judges. One crucial element he identified was the failure of the Ministry of Justice to provide the necessary resources needed to implement the reforms which Woolf, to his credit, had optimistically tried to make a precondition to the introduction of the reforms. De Saulles's conclusion to this chapter is a very accurate reflection of the history of these reforms.

Chapter 5 on sanctions reflects the failure of the judiciary to understand the need for sanctions. Sadly, the problems of enforcing case management decisions will always be with us. Few judges are likely to strike out a case or refuse the recovery of costs for trivial breeches of case management directions, but how far ought the court to allow persistent breeches of the Rules? Somehow the management directions have to be observed, with penalties for failure to do so.

De Saulles's concluding chapter is an excellent review and reflection on the tasks set by first and second appeals. Perhaps this chapter should also be compulsory reading for all involved in the Court of Appeal. Sadly, the author's remit did not allow him to express a view on the work of the Supreme Court – it might have made interesting reading!

CPR will be with us for many years; we must endeavour to make them work for the benefit of all. This is a well-researched account of the efforts of all who have endeavoured to reform the civil process, whereby justice is made available to all who seek the same through our civil courts.

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Pensions and Legal Policy: Lessons on the Shift from Public to Private. By Amanda Cooke. [Oxford: Hart Publishing, 2021. xiii + 229 pp. Hardback £70.00. ISBN 978-1-50992-937-5.]

The essence of *Pensions and Legal Policy* is a critique by Amanda Cooke of the automatic enrolment (AE) regime legislated for by the Pensions Act 2008, the policy behind it and some of the lessons to be learned from the way that policy has been implemented. In particular, the author challenges the legitimacy of the success claimed for AE measured by reference to the operation of active free choice rather than as a result of the inertia predicted by behavioural economics.

In brief, the Pensions Act 2008 impacts on the finances and retirement savings of millions of workers in the UK. The legislation imposes statutory obligations on employers to ensure that eligible workers are in, or automatically enrolled in, a qualifying or AE occupational or personal pension scheme. UK university employed readers of this review may well be auto-enrolled in the Universities Superannuation Scheme.

The scheme of the legislation is compulsion on employers to enrol eligible workers, and to make the minimum level of employer contribution to a money purchase (or defined contribution (DC)) scheme for such a worker or to make sure such a worker is provided with defined benefit (DB) benefits which meet the AE quality test under a DB occupational pension scheme.

To deliver the policy objective of individuals accumulating a higher level of retirement savings in AE compliant schemes, a key element of the AE legislation was (and is) reliance on inertia of the individual, once enrolled by the employer, to remain a member and to continue to contribute to the scheme. There is no