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BOOK REVIEWS

Timber and Forest Products Law. By Harry W. Falk, Jr. Berkeley: Howell-North Press. 1958. Pp. xviii, 365. \$7.50.

Timber and Forest Products Law is an attempt to state in plain and concise language, so as to be useful to both laymen and lawyers, the law applicable to timber and forest products of the continental United States, excluding Alaska. The book has succeeded to an unusual degree in this attempt and is especially valuable as it is the first published work on this subject since 1917. This success is due principally to the use of many practical examples illustrating the applicable law, the many references to the American law reports, and references to articles published since 1925 in American legal periodicals.

Presentation is by the text method and occasionally includes illustrative quotations from cases. There is a table of cases and an extensive index.

This is a text which warrants thorough reading as it may point out some problems which ordinarily would not occur to the lawyer whose practice includes forestry law. There are so many potential problems that the book cautions against attempting to cover too many contingencies in any contract as it may discourage the parties and result in an abandonment of the business deal.

In a statement entitled "Reference Material" immediately preceding the preface the author asserts that all prior American decisions have been exhaustively analyzed, and "an effort has been made to cite the most recent decisions in point, and leading reference sources." The author continues, "It has been concluded that decisions rendered prior to World War II should be treated with caution due to rather radical changes in this field" It is, of course, apparent that lawyers will have to seek all the cases and determine for themselves whether and to what extent they have been outdated.

The well written introductory chapter is of great value to both laymen and lawyers for its clear and frank discussion of attorney-client relations. It discusses the matter of attorney's fees, the advisability of consulting an attorney before becoming contractually bound, and the importance of the client's informing his attorney of all the facts within his knowledge. Of special interest to laymen are the chapters on Elementary Contract Principles (Chapter 2); Disputes Over Contracts (Chapter 16) which includes warranties, reality of consent, and remedies; and Business Organizations (Chapter 19). Chapter 5 gives briefly the status of the law in each state on the following: (1) the treatment of the sale of timber as real or personal property; (2) whether the state

has adopted the Uniform Sales Act; (3) the type of title acquired by a purchaser of timber; (4) applicable statutes of limitation; (5) whether the state has a Forest Practices Act; and (6) whether any special state statutes such as severance tax laws are applicable. In section 59 of this chapter the statement is made that Florida has adopted the Uniform Sales Act. Florida has not adopted the Uniform Sales Act.

The book gives excellent coverage to the many facets of the timber industry including such areas as: interpretation of contracts (for example, whether Christmas trees would be included by the term merchantable timber); the problem of highgrading on the part of the buyer; stipulations as to the time allowed for completing the harvest; measuring volume by log scales; transportation problems; trespass; surveys and boundaries; contracting the logging; professional assistance; and labor legislation. There is an extensive chapter on finance and credit. The chapter on taxation, though necessarily synoptic, is quite valuable for its discussion as to income tax law, including depletion and when special capital gains treatment will be allowed. Government ownership, control and regulation are given substantial treatment. The final chapter covers forms and has a contract provision check list.

In summary, *Timber and Forest Products Law* should be of much value to professional foresters, forest owners and other laymen connected with the industry, not only as a work on forest law but also for its excellent chapters on laws concerning commercial transactions. The attorney will find the book a convenient reference as a starting source and invaluable in its illustrations of practical problems in the forest industry.

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Cases and Materials on Equitable Remedies. By Maurice T. Van Hecke. St. Paul: West Publishing Co. 1959. Pp. xii, 651. \$10.50.

Although the author of this book prepared the Fourth Edition of Cook, *Cases and Materials on Equity*, this volume is not a new edition of the old casebook. It is a new book with new materials. About two-thirds of the cases which are included have been decided since World War II.

This volume covers substantially the whole field of equity, including specific performance of contracts, reformation and rescission, injunctions, jurisdiction in equity and enforcing equity decrees. There is a chapter which includes cases on bills of peace, interpleader, quieting title and declaratory judgments. Another chapter is devoted to the legal and equitable cases on restitution of benefits. Since these cases

should be studied together, this material is presented in some schools in a separate course called Restitution. Equitable servitudes have been omitted because they are usually covered in the course on real property. More questionable, because the material is not covered elsewhere in the curriculum of some schools, is the omission of cases on part performance of oral contracts within the statute of frauds and cases dealing with the problems of vendor-purchaser. However, there is a fairly complete section on devolution at the death of a party to a land sale contract.

The cases have been intelligently selected and edited to indicate recent development and trends in the rules of equity. They show, for instance, that courts may use equitable remedies to protect personal rights. This development is culminated in the *Krebiozen* case¹ which indicates that under some conditions a court can enjoin the publication of libel. Interpleader is another area where recent cases are necessary to show that courts are rejecting the requirement that the claims be derived from a common source or that there be privity between the claimants. It is sufficient if the claims are mutually exclusive. New trends are even developing in the rules for specific performance. The courts are becoming more inclined to give specific performance of construction contracts and other contracts where supervision is necessary. Also, the courts are more willing to give specific performance of contracts in which all terms are not fixed where hardship would result from a failure to grant specific performance.²

The principal cases are supplemented by carefully chosen excerpts from other cases, from treatises and from law review articles. In addition this book contains some brief but informative notes by the author.

Although it is not a maxim of equity, the saying that the proof of the pudding is in the eating is appropriate. Students who use this book should derive an excellent understanding of the rules of equity and of its ethical and discretionary flavor.

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¹ *Krebiozen Research Foundation v. Beacon Press, Inc.*, 334 Mass. 86, 134 N.E.2d 1 (1956), condensed in the casebook at p. 351. *Contra*, *Koussevitzky v. Allen, Towne & Heath, Inc.*, 188 Misc. 479, 68 N.Y.S.2d 779 (Sup. Ct. 1947), noted in the casebook at p. 357.

² *Chaney v. Schneider*, 92 Cal. App. 2d 88, 206 P.2d 669 (1949), condensed in the casebook at p. 38.

