

St. John's Law Review

Volume 33
Number 2 *Volume 33, May 1959, Number 2*

Article 26

May 2013

Cases and Materials on Equity (Book Review)

Joseph R. Crowley

Follow this and additional works at: <https://scholarship.law.stjohns.edu/lawreview>

Recommended Citation

Crowley, Joseph R. (1959) "Cases and Materials on Equity (Book Review)," *St. John's Law Review*. Vol. 33 : No. 2 , Article 26.

Available at: <https://scholarship.law.stjohns.edu/lawreview/vol33/iss2/26>

This Book Review is brought to you for free and open access by the Journals at St. John's Law Scholarship Repository. It has been accepted for inclusion in St. John's Law Review by an authorized editor of St. John's Law Scholarship Repository. For more information, please contact selbyc@stjohns.edu.

All in all the work is a mine of information, lucidly conveyed and agreeably presented. What cannot be found in the text may be found in the voluminous references and the sources to which they point. Professor Whitney has long been renowned for his production of authoritative works on commercial law and this book is no exception. It is an invaluable and interesting guide to student, teacher and practitioner to and through the labyrinth of modern commercial law.

EDWARD T. FAGAN.*



CASES AND MATERIALS ON EQUITY. By Zechariah Chafee, Jr. and Edward D. Re. Fourth Edition, Brooklyn: Foundation Press, 1958. Pp. xxxi, 1267. \$12.50.

This edition of one of the most widely used equity casebooks is a fitting successor to its illustrious predecessors. However, while this edition evidences a thorough and painstaking effort by Professor Re, it is not a radical revision of the previous edition. Nor does the scope and organization of this edition represent a substantial departure from the last.

Thus this review will be confined to a consideration of the more significant additions and deletions in the new edition, save for a minor reference to the basic approach of the work in general and not to this edition in particular.

The place of equity in the law school curriculum is frequently the subject of reappraisal. Some favor its abolition;¹ some follow the merger of law and equity to the point of teaching equity "in conjunction with the common law courses wherein it plays its part";² some retain the course but garnish it with the title of "Remedies" or the more descriptive one of "Equitable Remedies."

The above is all apropos of the scope and organization of the subject work. I am of the opinion that the course should be retained in the curriculum and am not overly concerned with the title given it in the catalogue. I find the organization and scope of this casebook to be in the main an excellent vehicle for the presentation of a course in equity, as I conceive it should be presented, with the following reservation. The two most powerful weapons in equity's arsenal are

* Professor of Law, St. John's University School of Law.

¹ Orfield, *The Place of Equity in the Law School Curriculum*, 2 J. LEGAL ED. 26, 35-40 (1949).

² Lee, *A New Role for Equity*, 10 J. LEGAL ED. 338, 339 (1958).

Specific Performance and Injunction. The presentation of Specific Performance in this book is detailed, comprehensive and overall a splendid teaching tool. However, as to Injunction the coverage, while detailed and comprehensive, lacks a generic and separate presentation of the principles considered by a court in its determination of whether an injunction should issue. I believe the student should have a basic familiarity with these principles before considering the right to injunctive relief in specific cases.

I hasten to point out that this is not a critique of the new edition as such, for Professor Re's task here was to revise and not to prepare a casebook with a basically novel approach.

I believe the most significant addition to the new edition is the inclusion of new material, particularly that dealing with the history and effect of the merger of Law and Equity. The new section on the merger is a concise but detailed summary of the history leading to unification and the means used to effectuate it, which prepares the student for a proper study of the cases which follow. Similarly, other new material bearing upon the merger, such as "Joinder of Causes of Action and the Right to Trial by Jury" and "Effect of Erroneous Prayer for Equitable Relief" do much to give the student a firmer grasp of the practical effects of unification and the problems thereby created. These additions together with new materials on other subject matter have done much to enhance the value of the book.

Another improvement I find in the revision is the taking of material heretofore relegated to footnote status and making it part of the text. For example, as a footnote the important "Note on Rights of Creditors" was frequently overlooked by the student; as part of the text it is placed on a par with the cases and materials and receives the same amount of attention.

As an example of the care given to this revision and of the effort to give the student a good working tool, the author has cross referenced cases in the book which deal with problems other than the one being considered at the point the case appears in the book. For example, footnoted to a discussion on the measure of damages in an action at law by the purchaser is a suggestion to see *Margraf v. Muir*, which is placed in the book on the question of the Inadequacy of Consideration.³ This case is an excellent reference on both subjects and should be studied when each is being considered.

As for the instructor who uses this book, there is no question but that he appreciates Professor Re's revision of the problem cases. He has reduced the number of such cases without detracting from the book because those cases retained treat the problem adequately.

The new cases which have been added are for the most part recent, well chosen and presented in annotated form so that the student is quickly apprised of the material facts and the holding thereon.

³ P. 644.

As to the cases deleted there are none the absence of which will be much lamented, and the removal of others will be applauded because they were repetitious and detracted from the book. However, in an effort to present a compact book, the author has on occasion excised portions of the principal cases which were printed in the prior edition, the obvious purpose being to include only that part of the court's opinion dealing with the precise question being studied. I am not in full agreement with this because, as in *Barnes v. Wood*, the portion deleted often presents an opportunity to the student to review principles previously considered.⁴

Finally, the author in the interest of saving space has removed all illustrations from this edition. I am not convinced of the wisdom of this judgment. I am sure that the student considering the issues presented in *Lumley v. Wagner*⁵ will, absent a picture of Miss Wagner, be less quick to comprehend the characteristics of uniqueness than his older brother who had a book with her incomparable visage therein inspiring him in his course of study. Similarly, without a picture of George Jessel, Master of the Rolls, a student conceivably might identify him with the latter day Jessel, noted Master after the Rolls.

In summary, Professor Re has prepared an edition which is sharply focused to the subject presented and, in my opinion, is a markedly better edition than the last.

JOSEPH R. CROWLEY.*



NEW YORK LAW OF WILLS, DESCENT AND DISTRIBUTION. By George F. Keenan. New York: Dennis & Company, 1958. Pp. xii, 538. \$10.00.

The volume under review first appeared in 1940 as a compilation of "Cases on Succession" edited by the noted Professor William K. Laidlaw of the University of Buffalo School of Law. The quality of the original work is attested to by the fact that it has been in constant use in several law schools for a generation. No doubt the passage of time and the constant flow of both legislation and decisions have prompted the current revision. It is the object of this review to catalog and evaluate the changes made by the present author, Professor George F. Keenan.

⁴ P. 537.

⁵ P. 266.

* Associate Professor of Law, Fordham University School of Law.