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Book Reviews

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BOOK REVIEWS

THE RULE AGAINST PERPETUITIES. J. H. C. Morris and W. Barton Leach. London: Stevens & Sons Limited, 1956. Pp. xlvii, 336.

This is a book about the most difficult and complex of all rules of property, written primarily for the English Bar. That is not, however, to suggest that it is valueless to the American bar, for like another text on the subject of future interests written primarily for local use,¹ major portions of the volume deserve the attention and study of any lawyer, teacher or judge who seeks or professes competence in the law of property. Because this book is written for the English Bar, most citations are to English and Commonwealth cases and statutes though Gray is frequently cited and other American authorities, including statutes and cases, are occasionally referred to for purposes of comparison.

The objective of the book, as stated in the preface, is to set forth, "the way the Rule functions in its modern environment and fulfils the needs of modern society." The format adopted by the authors to accomplish this objective typically consists of: (1) a statement of the law under discussion, supported by appropriate authorities; (2) a series of illustrative examples showing the actual, probable or possible application of the law; and (3) a critique where the authors state their views on the subject. This approach provided the authors with a method by which they could separately state, explain, and criticize each topic with which they dealt and hence, to a large extent, mechanically avoid the danger of inadvertently confusing what the law is with what the law should be. However, it seemed in reading the book that at times the format adopted strained the literary abilities of the authors in their efforts to keep the text from bogging down with tedious examples. In all, the volume contains about 221 such examples so perhaps it is understandable when homely similes, such as "This particular cherry can be eaten only in two bites; public policy is affronted by the attempt to eat it in one,"² appear in the text.

The scope of the book is surprisingly broader than one would judge from its modest length but fortunately breadth was not achieved at the expense of thoroughness. In addition to the standard coverage of the Rule, such topics as conflicts of law, the rule limiting the duration of trusts, and the Thellusson Act of England are brought under discussion.

¹ Kales, *Conditional and Future Interests and Illegal Conditions and Restraints in Illinois* (Callaghan and Company, Chicago, 1920), 2d Ed.

² Page 209.

As with most literary efforts (including book reviews), some parts of "The Rule Against Perpetuities" are better than others. In my opinion, those chapters, or parts thereof, dealing with the application of the Rule to class gifts, gift to charities, and powers of appointment represent the writers' best efforts while other portions of the book concerned with vesting and the initial statement of the Rule add little to what has already been written on the subject.

Finally, the book reflects the position of the authors that the English common law Rule Against Perpetuities, unlike some vintages, has not aged flawlessly³ and could stand some statutory modification. Justification for this position is placed on the propositions that lives in being plus 21 years is not a logical period in which to require the vesting of an interest created by a commercial transaction, and the fact that the courts, through the years, have built some rather arbitrary rules for the application of the Rule which have the effect of defeating the intention of testators, settlors, and grantors in some cases and upholding it in others when the only difference between the two is that of the form employed.

KENNETH L. STRONG

CONGRESSIONAL GOVERNMENT. Woodrow Wilson. New York: Meridian Books, 1956. Pp. 222. Paper.

Although this book is not primarily an exposition of law, that is not to say that it does not contain suitable reading for lawyers. If it be true that a lawyer is, aside from his professional activities, expected to be a leader of the community, particularly in the realm of governmental affairs, then the book here reviewed contains valuable insights into the functioning of representative government which should prove beneficial in the extracurricular aspects of his professional life. As an additional preliminary consideration, it seems pertinent to note that, although the book was originally published in 1885, the phenomena which the author observed appear to be equally influential today, if indeed they have not been more completely refined.

The author's underlying thesis is that the Congress is the dominant factor in representative government as found in the United States despite the theoretical balance of power between the executive, judicial and legis-

³ The cherry eating simile becomes even more understandable when the reviewer finds himself employing the same device for obviously the same reason.

lative branches ordained by the Constitution.¹ Moreover, the rulers of Congress are not the individual Congressmen but the committees to which various legislation is referred. Committee government, as the author denominates it, is viewed with alarm because of the omnipotence of the committee with respect to any specific subject of legislation, because it produces an inability to assign responsibility to either party for particular legislation, and because the independence of and lack of co-ordination between committees creates a house without recognizable leadership.

A study of the relation between the Congress and the executive also reveals a similar lack of co-ordination in the overall picture of government. The executive department is portrayed as the slave and, at the same time, the master of Congress in that it is completely dependent on Congress for positive action and yet is in a position to frustrate that body by the manner in which it executes the law. Again, the author perceives a hiatus which is a barrier to effective and efficient government as well as an inability to fix responsibility for the vagaries of government. In this aspect in particular, the American system is compared with the English Parliamentary system wherein the executive and cabinet are the leaders of the party in power in the House of Commons and they stand or fall as the House of Commons feels about their policies. But the necessary result is that there is recognizable leadership and party responsibility for the affairs of government.

¹ An introduction by Walter Lippman indicates that the ex-President later retreated from this hypothesis and adopted the view that this political imbalance is an unstable state and capable of self-adjustment as strong men ascend to the Presidency.