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Book Reviews

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BOOK REVIEWS

Handbook of the Law of Trusts. By GEORGE GLEASON BOGERT. Second Edition, 1942. West Publishing Co., St. Paul. Pp. v-738.

There are indeed many subjects which can be usefully summarized within the limits of a hornbook. Where the subject matter is extensive, the conflicts many, the reasoning uncertain, it is a question whether the preparation of a hornbook in such case is worth the doing. Such a treatise necessarily abounds in generalities and the author is driven to some such statement as that some cases hold one way and others the other way (e.g., pp. 534, 624). That detailed and useful discussion of the principles and policies involved would extend the manuscript beyond hornbook limits is granted.

Thus the author discusses delegation of powers by a trustee (pp. 323-5) but he does not give us a basis for understanding the problem arising when a corporation trustee under a will becomes merged with another. He mentions in his preface the great development of statutory law as a reason for a new edition of the hornbook, but he devotes less than one page to these statutes (pp. 16-17). The trustee can pass good title to a purchaser for value, even in breach of trust, under certain conditions. What about the requirement that the purchaser must get legal title in order to prevail if the trust consists of property held by equitable title and the trustee purports to transfer that which he has?

The discussion of the case where a settlor has settled property on himself and at his death to his heirs and next of kin is not illuminating. Some cases hold one way and others another is substantially the conclusion. The problem where a trust is created by a non-testamentary act or, as Scott calls it, by "an act having independent significance," would scarcely be suspected as existing from this book.

This reviewer has expressed elsewhere his great admiration for the really splendid 7 volume edition of *Trusts* by Professor Bogert (88 Pa. L. Rev. 889) (1940). This hornbook is as good, probably, as one has a right to expect, considering the author's purpose. Will it really be useful to students who come in contact with *Trusts* for the first time?

ALVIN E. EVANS

Credit Manual of Commercial Laws (War Edition) Published by National Association of Credit Men, New York City 848 pages, \$6.50.

Featuring the credit phases of war production, the 1943 edition of this handbook for credit men is one of the most important ever

issued in the 35 years this manual has been published by the National Association of Credit Men. The War Edition presents more than 200 pages of information about war production orders. Among the subjects covered in the war production section are: Points to Check When You Receive Orders for War Materials; How to Prepare Invoices to Save Time and Cut Government Red Tape; War Department Procurement Regulations; Determination of Costs on Government Contracts; Latest Revisions of Re-negotiation Regulation and Guide to Procedure; New Controlled Materials Plan and How Suppliers May Obtain Materials; Five Ways to Finance War Production; Smaller War Plants of WPB and How It Helps Smaller Manufacturers.

Other features include: New Foreign Trade Regulations, Walsh-Healey Act, Wage & Hour Law, Robinson-Patman, Wheeler-Lea, Tydings-Miller Act, Fair Trade Laws, etc. Tables outlining Limitations for Legal Actions, Bulk Sales Law requirements, exemptions, etc., Forms used most frequently in credit and collection work; the fundamentals of doing business in every State in the Union; and the problems arising from recent trade barriers between the States.

The Articles of War Annotated. By LEE S. TILLOTSON, Colonel, J.A.G.D., U. S. Army, Retired. The Military Service Publishing Company, Harrisburg, Pennsylvania. 1942. Pp. xix, 266.

A soldier on trial by court martial is given the privilege of choosing his own counsel in conducting his defense. He may select any practicing attorney he wishes. Also, when the necessities of war make it necessary, it is possible that a civilian may find himself subject to court martial. It follows from these facts that a practicing attorney may suddenly be called upon to defend a client before one of our military courts. He needs to know something about the Articles of War and the methods of trial before military tribunals. Colonel Tillotson's annotation of the Articles of War should supply his need. The author has taken the Articles of War in their order and given brief but adequate notes on their meaning and application. Citations are given to the Judge Advocate General's opinions, the Military Laws of the United States, and to court decisions. For the duration of the war, this is a book that the practicing lawyer will find of aid in answering questions put to him by clients who have members of their families in the armed services.

Opinion Evidence in Illinois. KING and PILLINGER. Callaghan and Company, Chicago 1942. Pp. vii-389.

The subject matter of this book is a re-examination of the fact-opinion rule in Illinois. The authors trace the evolution of the rule

in that state from 1840 to the present day. The topic chosen by Mr. King and Mr. Pillinger is a practical one to judges, lawyers and witnesses. The authors appreciate the dilemma of a witness, who in good faith believes he is stating facts, only to be told the court does not care to hear his opinion. One-fifth of the cases in Illinois on evidence relate to the opinion rule. More than one-sixth of the cases in the United States relate to opinion evidence.

Wigmore, in 1904, found the cases involving the fact-opinion rule in a state of complete confusion. The purpose of the authors is to demonstrate what Illinois has, successfully, done in its cases to bring order to the confusion Wigmore found. The evolution of the Illinois law is set forth simply and objectively. The authors do not attempt to impose upon the reader any pet personal ideas or theories of the law.* The authors go directly to the cases in their analysis of the rule. As one reads, one sees the gradual narrowing of the application of the fact opinion rule in Illinois. Wigmore predicted the complete abrogation of the rule. The authors, however, show that Illinois makes practical, sensible use of the fact opinion rule and has not destroyed it.

In presentation of the problem the authors contend a wrong interpretation of the English law by American courts paved the way for generations of confusion which followed in American trials involving the fact-opinion rule. After the problem, the early law, and historical development are presented, the following chapters consider specific cases of opinion evidence on particular topics in the law. The book also includes chapters treating matters of qualification, cross examination and the weighing of opinion evidence. The chapters are not long but are short and comprehensive. The last chapter is a summary and conclusion in which the authors show the use Illinois now makes of the fact-opinion rule.

The reviewer believes the book is one which all lawyers and judges could read with profit. Although the problem is one which arises every day, the law schools apportion but little time to its study. The book is one which every evidence teacher might cite to his students when the study of opinion-evidence is entered upon.

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A Permanent United Nations, AMOS J. PEASLEE, G. P. Putnam's Sons, New York, pp 1-x, 1-146, \$1.50, 1942; *Democracy, Efficiency, Stability*, ARTHUR C. MILLSPAUGH, The Brookings Institution, pp. 1-x, 1-520, \$2.00, 1942.

The two volumes under review represent exploratory statements of what the authors consider wrong and remedial measures of the ills of a world at war from divergent points of view.

Peaslee develops post-war organization from the international point of view. Germany, Italy and Japan are labeled the three bandit nations and thus need to be controlled by a United Society of Nations which will go beyond alleged impotent reparations and sanctions. Obligatory adherence to a written constitution is regarded as essential with adequate, defined powers and financial self-support through indirect revenues in lieu of present barriers for whatever type of permanent governing body is established.

Millspaugh views our nation's ills from the domestic point of view. Democracy is posited as a matter of willing its realization. Efficiency calls for modification of many hitherto established principles of American government if democracy is to survive. Stability is possible to the extent the elements of the democratic spirit undergo significant changes. The "fatalism of the multitude" is regarded subject to readjustment to other values, especially in a time of conflict.

ORBA F TRAYLOR