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Book Reviews

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BOOK REVIEWS

BOUNDARY PROBLEMS AND DEVELOPMENT PROJECTS—PITFALLS AND HOW TO AVOID THEM. By D. G. W. Ricketts, C. E. pp. xxx, 131, 140 plates. New Orleans: Pelican Publishing Company. 1939.

When it comes to boundary problems arising in cases involving real estate transfers, the lawyer has to look to the civil engineers for assistance. As every lawyer knows, his civil engineer friend is pretty apt to be expert in using the records of land titles, in fact, an expert abstractor. It is not surprising, then, to find a civil engineer editing such a book as "Boundary Problems and Development Projects." Mr. Ricketts seeks to help the lawyer by pointing out the pitfalls found in land descriptions and to show him how to avoid them.

The author has sought to produce a practical book which shall be of use to both lawyers and property owners. He calls attention to the losses that are caused by inaccuracy in surveying and then proceeds to show how good surveys may be made that will avoid such losses. Mr. Ricketts has had an extensive experience in retracing ancient boundaries and has long been active in developing residential and industrial subdivisions. He knows whereof he speaks. He seeks to give the benefit of this experience in solving these problems to lawyers, engineers, property owners, students and real estate men.

His work has the advantages gained by conciseness. After excluding introductory matter, a history of surveying from the ancients to the present day, appendix and plates; we find only about sixty pages left for the real subject, retracing township, range and section lines together with private claims. The plates, of course, contain valuable material but the tabulations and solution of problems and also formulas are somewhat technical and appeal more to the civil engineer than to the average lawyer. This is strictly an engineer's treatise designed to help the lawyer who is confronted with a title case involving defective surveys and obscure boundaries.

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CASES AND MATERIALS ON PROPERTY SECURITY. By George E. Osborne. American Casebook Series. St. Paul: West Publishing Company. 1940, pp. LXIV, 1039.

Professor Osborne has divided his casebook into two parts, one covering the subject of real estate mortgages and the other, chattel mortgages, pledges, trust receipts and conditional sales. By far the greater part of the book is taken up with land mortgages, seven hun-

dred and eighty pages, to be exact, out of the ten hundred pages or more. As the compiler points out in his preface, he has built on Parks' casebook on Mortgages and used cases and materials contained therein.

His casebook aims to meet the needs of those schools that have not combined the subjects of mortgages and suretyship under the title of credit transactions or security. It calls for a companion casebook dealing with the subject of suretyship. The failure to include cases on the latter subject greatly limits its adoption, even though there is a large number of schools offering mortgages as a separate course.

The notes are very complete, unusually so. Much has been published in law reviews, articles as well as notes, on the various phases of mortgage law. Professor Osborne seems to have cited a very large proportion of them and has included an extensive index of such articles and notes. One might question whether the inclusion of so much material in the footnotes and citations of so many law review notes is well advised. It may make it too easy for the student and defeat the object of the case system, namely, to make the student think out the solution of legal problems rather than to memorize a mass of legal principles. While this may aid the poor instructor, it may be a handicap to the one who develops his subject according to the rules laid down by the followers of Landell and Ames.

Professor Osborne's choice of cases is to be commended. One finds most of the cases that are landmarks in the development of mortgage law as well as a goodly number decided in recent years. Besides, his arrangement of them seems to give a logical presentation of the subject.

The casebook shows that scholarship, as well as an infinite amount of hard work, has entered into its preparation.

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CASES ON INSURANCE. By William R. Vance. Third Edition, 1940. pp. vii-964. American Casebook Series. West Publishing Co., St. Paul.

This casebook is the last of the many valuable contributions by the late Professor Vance. It is worthy of examination not only because it is an excellent collection of cases, carefully selected and edited, but also because it differs from the old standard which we set up for casebooks.

Most of the cases are recent; comparatively few bear dates prior to 1920 and many were decided within the last year. The cases cover the problems of insurance the lawyer meets today and not merely the insurance law of forty years ago. There are chapters on group insur-

ance, liability insurance, accident insurance, and discussions of other extensions of the insurance devices including social security legislation.

The "Headnotes" which appear at the beginning of each chapter are not mere text-book statements to fill gaps but are comments raising the problems to be discussed in the cases, awakening the students interest, and giving information as to the factual situations and business practices or conditions creating the legal problems. However there is a decided favoring of text-book teaching by the inclusion of an extensive bibliography of law review articles dealing with the various aspects of the law of insurance, and many quotations from legal periodicals printed as footnotes or inserted between cases. This is probably satisfactory even to those who condemn the use of textbooks but lean heavily on the same words if printed in a periodical. There are also several excerpts from textbooks, but the author has been over modest in quoting other writers rather than including extracts from his own excellent text. In these references and additions, as well as in the inclusion and correlation of so-called non-legal material, the author is following a modern tendency in case-book construction.

The book is designed for use in a three-hour semester course and seems somewhat too large even for that time allowance. However the author has considerably included a table of suggested omissions for the purpose of cutting to fit a two-hour course and this removes most of the objection to the size of the book except the resulting increased cost to the students.

In some of the cases the author has substituted his own statement of the facts rather than include the longer and more-or-less confusing statement by the court. This seems to be a very desirable innovation especially for advanced students.

This third edition is a decided improvement over the earlier editions and not a mere revision made, as we sometimes suspect, for the purpose of creating a market for new books.

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CASES AND MATERIALS ON BUSINESS ASSOCIATIONS—CORPORATIONS—Vol. I. By E. Merrick Dodd, Jr., and Ralph J. Baker. 1940. pp. iii-1306. The Foundation Press, Inc., Chicago.

Now that the first volume of Dodd & Baker's Cases & Materials on Business Associations has appeared, there is a fine group of books from which to select. Thus, besides Dodd & Baker's book, there is Ballantine & Lattin's book and one by Professor James; another by Frey; another and later edition of Richards' well known selection, in which the title "Corporations" is retained. There are, of course, others not quite so recent still in use, such as the volume by Professor

Wormser and the three volume work of Douglas & Shanks. The Dodd and Baker books will probably be more inclusive, though we have yet to learn the topics to be treated in the volume not yet issued. Perhaps among other subjects, it will deal with corporate reorganizations. To compare all these briefly is quite out of the question. The user of the Dodd & Baker book will be impressed not merely by the selection of the cases but especially by the scholarly notes appearing throughout the book. The broad sweep of the note (or rather article) at the very beginning on the Evolution of Business Corporations is most informing.

The order of subject matter differs materially from that in most other collections. Thus, so-called *de facto* corporations are considered before promoters. A section is devoted to *de facto* directors and officers, a subject often neglected. The lessened space devoted to what used to be considered *ultra vires* transactions indicates the waning significance of that topic. Fortunately the statutes passed in several states which effectively dispose of the doctrine of constructive notice have been set out on pages 109-111. There is a good chapter on shareholders' suits. Perhaps we may be surprised to find in Chapter 8, section 1, the topic of pre-incorporation subscriptions again to the fore and separated from the material on promoters. Here it is considered in comparison with post-subscriptions. This material is commonly put near the beginning of the study of Corporations.

No adequate review can be made by one who has not read all the material, including the notes, and this I have not done, inasmuch as the book contains 1286 pages of text. The sampling which has been possible seems to promise that the book is up to the standard which we rightly expect from these two experts.

It would have been useful if the editors had inserted in their table of contents a list of the subjects to be found in the second volume.

A. E.

CASES AND MATERIALS ON THE LAW OF TRUSTS. By Richard R. Powell. 1940. pp. vii-1034. West Publishing Co., St. Paul.

This case-book is produced particularly for those who desire to make use of the characteristic features of the same Editor's cases on Trusts (emphasis upon statutes and administration as well as upon recent case law) but who desire to offer a course on Trusts primarily. Of course no one can give an appropriate course on Trusts and entirely eliminate the material on estates, such as future interests, the rule against remoteness of vesting, against restrictions on alienations and the like. But a solid course primarily on trust law does seem to have a place.

Powell says that two features in this book are made prominent, viz, the consideration which a trust drafter must give to the matter of taxation, and the business trust, which is more fully developed

here than in most books. Yet no trust teacher will wholly avoid the tax problem nor the business trust whatever book he uses. It seems more natural to this reviewer to develop the business trust in connection with the general study of business associations.

The Editor's well known skill in organization and keen scent for problems and his historical sense are everywhere apparent. This reviewer, however, misses some items that he would have to fill in if and when he uses this book. Among them are the remedies possible where the trustee is negligent in bringing suit or colludes with another (*Westmore v. Porter*) or is overreached. Respecting trusts with no definite beneficiary, *re Dean*, 41 Ch. D. 552 (1889) does not cover the type of case arising in *Norman v. Price*, 40 R. I. 402 (1917); nor in *Morice v. The Bishop*, 10 Ves. 521 (1805); nor in *Scott's Will*, 88 Minn. 306, 93 N. W. 109 (1903) all of which latter cases are omitted.

The chapter on Termination of Trusts is particularly good. Perhaps more space might have been used for cases where a trust is sought to be extinguished where the possibility of having issue may be considered extinct. There are a good many such cases and the later rule in equity, at least in England, does not harmonize with the early rule laid down in *Jee v. Audley*, 1 Cox 324 (*Ch. Div.* 1787). Professor Powell gives but a brief footnote to the matter (p. 933, n. 9).

A. E.

CASES ON THE LAW OF DAMAGES, Judson A. Crane, West Publishing Company, Saint Paul, 1940, pp. 521 and Cases on the Law of Damages, Ralph S. Bauer, Callaghan and Company, Chicago, 1940, pp. 646.

Of growing importance in recent casebooks is the use of text notes as well as footnotes to give the student a general idea of his objectives in studying the material. Some of these notes are of an informational and critical type to cover topics and theories which can not properly be taken up case by case, but all of them are supported by treatises, notes, comments, and annotations, and are usually followed by problems to stimulate constructive thinking on the part of the student. Professor Crane and Professor Bauer have not included such notes in their books, but have almost entirely relied on the citations and the briefs of cases to supplement those set out in the body. These two books have as their objective a modern and comprehensive view of the law on the measure of damages and have accomplished that result by a compilation of recent cases on that subject supported by footnote cases dealing with the various aspects of the principal problem presented.

The authors have treated the subject in a similar manner by first setting out the general nature of the law of damages and then presenting a detailed treatment of the problem of damages in connection with contracts and torts. The authorities collected in the footnotes by Professor Bauer are more voluminous than those of Professor

Crane. Otherwise the books are about equal in merit. In both of them the authors have made reference to pertinent sections of the Restatement of Torts and Contracts in order to furnish a key to the state annotations and to the solution of varying problems of the principle cases.

H. W. R.

GOVERNMENT AND ECONOMIC LIFE. Vol. II. Leverett S. Lyon, Victor Abramson and Associates. Brookings Institute, 1940. Pp. 765. \$3.50.

This book complements Volume I in an interpretation of American public policy in relation to our economic life. The first volume of this study dealt with governmental implementation and regulation of private enterprise as it has been applied *generally* to a wide range of industrial and commercial life, while the relationships here considered are those in which limited areas of economic life or limited time periods have been singled out for special governmental treatment.

The industries discussed and occasions analyzed furnish the plan of organization for this volume. They are: foreign commerce, public utilities, transportation, agriculture, bituminous coal, petroleum, foods, the National Recovery Administration, war, government as a producer of final goods, public relief and social security. A chapter is devoted also to concluding observations.

A brief but complete analysis is made in Chapter XXVIII of the difficulties which arose in organizing our economy during the World War. The very current problem of how we have planned to overcome these difficulties if we become involved in war again is also pointed out. In Chapter XXIV the government's experiences in attempting to fix the price of coal are related, and in Chapter XXX the problems inherent in administering public relief are discussed. The study made in these three instances at least should be of great value to students, and governmental officials as well, in facing three issues of importance today: national defence, price fixing, and public relief.

The chapters on foreign commerce, public utilities, transportation, agriculture, petroleum, and foods and drugs are well done, but it is doubtful if their present importance justifies the space allotted to them. More than a chapter might well have been devoted to the government as a producer of final goods and services for this seems to be the point where the government in the future is going to come into closer relation with our economic life.

To the extent that the reviewer is able to judge the conclusions made are accurate and conservative. The wealth of material used and the unbiased interpretation given add to the scholarly character of the study made and the volume resulting from this study. It is believed that this book will be of greatest value to the student of governmental policy, but it is by no means limited to that purpose.

W. L. M., JR.