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Book Reviews

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BOOK REVIEWS

THE DOCTRINE OF CONTINUOUS VOYAGE. By Herbert Whittaker Bridges. Baltimore: The Johns Hopkins Press. 1926, pp. x, 226.

The conclusion of Dr. Briggs' work on "The Doctrine of Continuous Voyage," which which is one of the Johns Hopkins University studies in historical and political science, is that the doctrine will play havoc with neutral rights when the belligerents are the big powers. He traces how rapidly in the World War the limits set on the right of search and seizure and recognized in the doctrine of continuous voyage were thrown down. One senses the futility of building up a carefully limited right to interfere with neutral shipping under certain recognized conditions, as one realizes that if the need become great enough no power will risk its national existence for the sake of observing legal restrictions on its right to cripple as best it can the sources of enemy supplies. But it is at least to be hoped that Prize Courts will order restitution when neutral rights are thus outraged and even this hope was frequently disappointed in the World War.

Dr. Briggs begins by tracing the doctrine from its origin in the efforts of Great Britain to enforce the rule of the War of 1756, under the terms of which a trade in which neutrals were forbidden to engage in time of peace might not be opened to them in time of war. Such a rule had considerable scope in colonial days when the trade with the colonies in peace time as well as war time was reserved to the merchants of the mother country. When the rule was revived in 1793, at the outbreak of the war between England and France, neutrals protested because they were denied the profitable trade with the French colonies. American ship captains not only protested, but devised the plan of carrying goods from a French colony to a port of the United States and thence reshipping the cargo to France. It was to meet this practice that the British Prize Court adopted the doctrine of continuous voyage, holding that "where a voyage was in fact a continuous voyage from a foreign colony to its mother country, it was not made two voyages by the fraudulent insertion of an intermediate

port for the purpose of gaining thereby an apparently innocent port of departure."

The colonial policy of 1756 and the rule of the War of 1756 are now mere matters of history, but the doctrine of continuous voyage to which they gave rise has played an important part in the prize court decisions of all the wars since. Dr. Briggs calls attention to the greater difficulty of applying the doctrine to contraband and blockade cases, where the seizure is made on the first leg of the voyage, and proof of the intent as to the final destination is less certain than in cases of colonial trade where the seizure was made on the second leg of the voyage. Thus, there was difficulty in the Civil War cases, where the federal government seized neutral ships bound from Europe to Nassau and other islands off the American coast before they ran the blockade. Justice Elliott in 1 American Journal of International Law, p. 76, thus describes the situation:

"A small island near the coast of Florida, therefore, soon became the center of an important trade. Its harbors swarmed with innocent looking trade vessels and the United States government was asked to assume that they had no improper relations with other craft of race horse type and notorious character which so frequently called at the port. . . . It was in fact common knowledge that the entire trade was a gross, manifest and palpable evasion of the recognized rules and requirements of the law of neutrality, that Nassau was a mere outpost for attack upon a friendly belligerent by theoretical neutrals; a rendezvous for vessels engaged in a forbidden trade."

Under such circumstances, it was to be expected that the federal government would seize a neutral ship even though the ship's papers indicated a neutral port, if there were other facts and conditions indicating an intent to run the blockade. The author is of the opinion that in the three leading cases of the *Dolphin,* the *Pearl,* and the *Circassian,* there was no legitimate extension of the doctrine of continuous voyage to blockade, as there were suspicious circumstances justifying the seizure in each case. Other Civil War cases he regards as less satisfactory because of the difficulty of determining on what grounds the decisions were based. It is difficult to escape the conclusion that the Supreme Court, like the British Prize Court in the

World War, was willing to sustain the seizure if on any ground it could possibly do so.

Dr. Briggs pays particular attention to the decision of the Supreme Court of the United States in the case of *"The Springbok,"* 5 Wall U. S. 1 (1866). The case is noteworthy first because the cargo was condemned although the ship was released—a practice often followed during the World War—and second because it violated a rule that a ship "must be condemned out of her own mouth." Until this decision, the practice was that an order for further proof would not be entered unless the evidence obtained from the vessel itself—from the ship's papers, the depositions of master and crew to certain fixed questions and an examination of the cargo—revealed suspicious circumstances. The capture in the Springbok case was based on a list of suspected vessels furnished by the federal government, and a seizure based on such extraneous evidence was wholly contrary to international law of visit, search and capture. Dr. Briggs points out that in its "disregard of prize procedure, the Springbok decision unfortunately furnishes a precedent for cases decided in the British Prize Court during the World War and on that ground deserves some of the criticism hurled at it."

Dr. Briggs holds that the British practice in the World War of "speculative capture" of a vessel on a voyage between neutral ports in the hope of justifying seizure later by evidence obtained in port after seizure is wholly unwarranted and is a violation of neutral rights not supported by any true doctrine of blockade or contraband. Similarly, the tendency to condemn certain goods merely because excessive quantities of such goods were being imported into enemy countries from adjacent neutral countries cannot be justified in international law. "It must be shown in every case," says the author, "that the particular goods seized have an ultimate enemy destination."

But against this insistence by neutrals on international law the necessities of the belligerent powers, in the last war even more than in other wars, brooked no interference from lawyers or jurists. In the next war, it may be that instead of a vastly expanded doctrine of continuous voyage, we may have the simple ruthless rule of the belligerent, "seize what you can, neutral or enemy, regardless of the neat questions of contraband or blockade or destination." From that prospect there seems only one

way of escape. War itself must be outlawed. Because war does not keep even its own laws, because not merely the belligerents but the neutrals of the world suffer from such lawlessness, the world must safeguard its own peace and make war an international crime. Now, while the memories of the horrors of 1914 and 1918 are hot upon us, we must organize for peace. It is to this hope that the uncertainty and the weakness of so-called laws of war, like this doctrine of the continuous voyage. at last drive us. CHARLES J. TURCK.

THE INTIMATE PAPERS OF COLONEL HOUSE. Arranged by as a narrative by Charles Seymour. Two volumes. Boston: Houghton-Mifflin Company. 1926, pp. xxiii, 471; IX, 508.

In 1922 Colonel House gave to Yale University his entire collection of political papers to be deposited in the University Library as a contribution to enrich the historical account of the period of Woodrow Wilson's presidency. Charles Seymour, Sterling Professor of History at Yale University, secured permission to select and publish the most significant of these in the form of a narrative. The product of his labors is "The Intimate Papers of Colonel House." The historicity of the narrative is maintained throughout both volumes by careful arrangement and chronological balance of the documents.

The purpose of the work is to bring out the salient points of the controversial period of diplomatic uncertainty during the World War. The author has attempted to eliminate any partisan or personal viewpoint in his selection and arrangement of the documents in order that the complete work may be as nearly unbiased as it is possible to make it. At least, that is the impression he creates in the mind of the reader. This is indeed the only policy it is possible to follow and still secure all the valuable sidelights on many aspects of the political story. However, the author is not lacking in critical analysis of the attitude and viewpoint of many of the actors of the period he attempts to present. Throughout the narrative the great central figure of Woodrow Wilson is the center of attraction around which all incidents revolve and about whom all other actors of the time are drawn either in bonds of mutual love and affection for him as a mighty leader or by circumstances born of opposition to his policies.

The reason of the author for choosing the particular manner of presenting the material which he did is best explained by his own words:

"Upon the basis of such papers and his recollections, Colonel House might have written the conventional 'Memoirs,' which too often confuse the after-impression with the event itself, but which, through the possession of hindsight, preserve the author from ever having committed an error. Instead, he chose to let the papers tell their own story and permit the reader to decide whether or not the Colonel was right in this incident and that. If there is prejudice in the pages that follow—and what historical narrative is innocent of prejudice?—it is that of the man who, after many months of arranging the papers so as to let them make a story, came to see events through the eyes of Colonel House himself. But at no time was a chapter begun under the influence of a preconceived thesis, and nothing could have been more exciting than to watch the behavior of the chief figures as each chapter took form; in this they did well, in that they were disappointing.

"An objective narrative, such as the documents themselves recount, was the more necessary in view of the paucity of published information touching the career of Colonel House. There are few, if any, instances of men exercising so much political influence about whom so little was known. The personal story of a man holding public office must needs become public property. A searchlight is immediately turned on his past career. The press will have it so and, if skillfully utilized, political propaganda of value may conceivably be developed from it. Since we demand from our public personages a certain blameless rectitude of conduct, without which one is ill-advised to seek office, the subject of inquiry, even though he may never have accomplished anything of note, is generally well pleased with the conventions of political advertising designed to engage the interest of the voters. With Colonel House it was bound to be otherwise."

The conclusion may well be drawn that Colonel House had no personal motives to consider in allowing the papers to be published. He was rather inclined to avoid publicity as much as he could. In this way he hoped to avoid political enmities and jealousies which otherwise he could not avoid. He had already by

special request to the publishers withdrawn a brief biography which gave him full credit for his great influence in the Wilson administration. We are thus assured that the manner of presenting the material renders the completed product substantially free from personal or political motives.

The two volumes are presented in readable type and are supremely interesting from the beginning to the end of the story. The narrative is informing and portrays better than any other publication has so far done the great difficulties of the period presented and the resourcefulness exercised in working out solutions for them. The author deserves much credit for the excellent judgment and critical ability he has displayed in arranging the documents so as to form an interesting and instructive narrative. WOODSON DENNIE SCOTT.

CASES ON THE LAW OF PUBLIC UTILITIES. By Young B. Smith and Noel T. Dowling. CASES AND READINGS ON RATES. By Roberts L. Hale. American Casebook Series. St. Paul: West Publishing Company. 1926, pp. xxvii, 1258.

The rapid growth and development during the past twenty-five years in the law affecting carriers and public service corporations has made it eminently fitting that the publishers of the well known American Casebooks to add to their series a casebook on the law of Public Utilities. The book compiled by Professors Smith and Dowling with a chapter on rate making by Professor Hale is made up to a very great extent of cases decided during the last quarter of a century. In fact, all but four of the cases selected to illustrate the law of rate making are of very recent date, as one might reasonably expect.

The first seventy-five pages of the work are devoted to the development of the common law on the subject. This chapter furnishes an historical background for the student and prepares him for taking up recent legislatuve changes. In this first chapter appear the greater part of the few English cases used. One finds there such old cases as *Jackson* v. *Rogers* and *Gisbourn* v. *Hurst*. The editors for the most part have been very successful in selecting fresh material. Very few of the old familiar cases are used, however, one does find *Munn* v. *Illinois, United States* v. *Lehigh Valley Railway Co.,* and *Inter-Ocean Publishing Co.* v. *Associated Press* among those chosen.

The arrangement of the book is logical. After supplying the student with a knowledge of the earlier common law and the later legislative changes, chapters are given to supervision of public utilities, service, liability and rates. The editors have arranged their cases in the various sections in order of sequence. They have placed especial emphasis on the Interstate Commerce Act and have made accessible to students a copy of the act in the appendix.

Much more material has been supplied in the twelve hundred and fifty-eight pages than can possibly be used in the time usually available for this subject in the law school. The compilers have arranged their material in such a way as to meet the needs of both the teacher who wishes to place special emphasis on the subject of carriers and of those who stress public utilities. In either case sections can be omitted, or if the time is given in a school for both courses in carriers and public utilities material has been provided for both.

The chapter on rate making is rather unique. The editor has made use of articles or portions of articles from magazines and law reviews as well as cases. He has supplied more material, perhaps, in his footnotes than Professors Smith and Dowling have in the first part of the book, although they have prepared many more notes than are usually found in casebooks. The notes in both parts of the book show wide research on the part of the editors and make the work of especial value to the teacher.

W. LEWIS ROBERTS.

CASES AND OTHER AUTHORITIES ON EQUITY. One volume edition. By Walter Wheeler Cook. American Casebook Series. St. Paul: West Publishing Company. 1926. pp. xix, 1179.

Professor Cook has successfully consolidated his three volumes of Cases on Equity into a one-volume edition to meet the popular demand in law schools where the time devoted to the subject is not sufficient to allow the use of the three-volume edition. The new edition supplies material enough for a class meeting three hours a week during the college year.

In order to consolidate the material contained in some twenty-seven hundred pages in the original work into less than twelve hundred pages in the new edition, it was necessary to omit several whole chapters and sections from three or four others.

The omission of section 6 of chapter II of volume I, dealing with the subject of extraterritorial recognition of equitable decrees, is wisely left for some other course in the law school curriculum. Three chapters covering part of the work in Quasi Contracts are also left out of the new book. A further reduction in volume has been secured by the omission of more than half the original cases selected. The greater number of the cases that have been dropped have been abstracted and used in the footnotes. One new case decided in 1926, *Dexter* v. *Winslow,* has been added and one case that was formerly abstracted in a footnote, *Bannatyne* v. *MacIver,* has been made a principal case. Some of the landmark cases in equity like *Lewis* v. *Gollner* and *Rayner* v. *Preston* have been relegated to the footnotes. For the most part the omissions are scattered throughout the three volumes except where whole chapters or sections are left out, but not infrequently nine or ten cases are dropped at the end of a chapter or section. This would seem a serious objection if the cases originally had been arranged in the usual order of sequence where the most important cases are put at the end of a section.

Professor Cook has supplied an unusually large number of footnotes. Those in the earlier three-volume edition have been materially increased by the abstracts of cases not embodied in the text of the new edition. The purpose of these notes seems to be rather to give information than to encourage further search and discussion. They are really answers to the problems and make the book of value to the practicing lawyer but of doubtful value to the teacher. The many references to articles in the leading law reviews make available to both teachers and student the most valuable monographs on the subjects under consideration. The numerous citations to Cyc. are somewhat unusual but should add to the general utility of the book.

Professor Cook has certainly collected excellent cases which make the subject very interesting to the student. The teacher's attitude towards this new edition will depend to a large extent upon whether he believes Equity and Quasi Contracts can be covered in one year or whether a year and a half should be given to them.

W. LEWIS ROBERTS

CASES ON CONSTITUTIONAL LAW WITH SUPPLEMENT. By James Parker Hall. American Casebook Series. St. Paul: West Publishing Company. 1926, pp. xlv, vii, 1867.

Dean Hall in his second edition of his Casebook on Constitutional Law has left the material contained in the first edition intact and has added a supplement containing over four hundred pages of recent cases. That the old edition can be used in this way speaks well for the scholarly work that was originally done by the editor. The addition of these new cases has been made necessary, as the editor explains in his preface, by the great number of decisions rendered since 1913 upon important questions such as taxation, police powers, commerce, and the limitations on the powers of the state and federal governments.

The new cases in the supplement are prefaced by black letter cross-references to pages in the main part of the book which suggest to the teacher just where these cases fit in. The editor has forestalled criticism of his method of introducing these new decisions into their proper places by his announcement that he hopes at a future time to make a thorough revision and to so consolidate the material used as to make the book less bulky. The addition of these recent cases should enable this well known casebook to continue to hold first place among casebooks on Constitutional Law until the editor has had an opportunity to make the revision contemplated. W. LEWIS ROBERTS.

TAX DIARY AND MANUAL FOR 1927. New York: Prentice-Hall, Inc. 1926, pp. 599.

The 1927 edition of the Prentice-Hall, Inc., compendium of tax information contains an outline of all important taxes, except general property taxes, and gives all the dates on which the taxes in the various states of the United States, the federal government and the District of Columbia are due. It has all the material given in the 1926 edition and additional information in regard to important holidays that affect tax dates, charts for aiding in the selection of a state in which to incorporate if one is to take advantage of the most favorable tax provisions possible, and also an outline of the federal income taxes.

Nowhere else can the information contained in this book be found so conveniently summarized and in such convenient form. This is especially true of the summary of state income taxes on

individuals, the outline of the state taxes on corporations, and the outline of federal taxes. The diary shows the calendar dates the exact day upon which tax reports by returns, and payments should be made. This section of the book should prove of very great value to any attorney or accountant who has anything to do with state or federal tax returns.

The book is printed on excellent paper and is handsomely bound in red fabrikoid.

STUDENTS' MANUAL OF BANKRUPTCY LAW AND PRACTICE. By Lee E. Joslyn. Revised edition with Amendments of 1926. Albany: Matthew Bender & Company, Incorporated. 1926, pp. xviii, 354.

THE BANKRUPTCY ACT OF 1898, INCLUDING AMENDMENTS OF 1926. Collier Pamphlet Edition. Albany: Matthew Bender & Company, Incorporated. 1926, pp. 181.

The amendments of May 28, 1926, to the federal bankruptcy act made a revision of the Students' Manual of Bankruptcy by Mr. Joslyn necessary. The main part of the book is made up of material used in lectures given by the author at the Detroit College of Law and was intended to be used in connection with the Collier Students' Edition of the Bankruptcy Act. Since the earlier edition was not much more than from the press when the act was amended at the last session of Congress the author found that few changes in his text were necessary to make it conform with the amended act. In the appendix the copy of the bankruptcy act has been placed first, followed by general orders in bankruptcy. Copies of the official forms prescribed by the Supreme Court of the United States are placed last in order.

The author has endeavored to cover questions that arise in actual practice in bankruptcy as fully as one can in a book of this size. As the writer has himself been a referee in bankruptcy for the past fifteen years he has had no difficulty in finding such practical questions. He has, as he has pointed out in his preface, left the more technical questions for the more exhaustive works on the subject, such as Collier on Bankruptcy.

THE COLLIER PHAMPLET EDITION OF THE BANKRUPTCY ACT OF 1898 including amendments of May 27, 1926 contains in

paper covers the material used in the appendix of the Students' Manual of Bankruptcy Law and Practice and is in convenient form for classroom work.

LAW OFFICE MANAGEMENT. By Dwight G. McCarty. New York: Prentice-Hall, Inc. 1926, pp. xi, 386.

The cencentration of legal business in large offices located in commercial centers has necessitated careful management of forces in order to get the most service out of those employed and also to avoid loss of fees by neglect to make charges as the work is rendered clients. This need has brought forth "the first manual on runnning the law office." It is based on practices in both large and small offices. The author says: "During the last ten years a thorough investigation has been made of the methods employed in all lines of business and law offices in all parts of the country. These data have been sifted and adapted to law office procedure and then tried and tested by the fire of actual practice in different localities."

Chapters are devoted to such problems as Time Records and Charges, Standard Practice Instructions, Office Management and Appearance, Correspondence Details and Better Letters, Law Office Filing Systems, Court Chart and Office Docket, Reception of Callers and the Lawyer's Personality, Billing a Client, Short-cuts in Brief Making, and others peculiar to the legal profession.

In dealing with the difficult problem which confronts every lawyer, namely, the amount of the fee to be charged, the author says: "A lawyer who saves his client from a prison sentence does not base his charge on the number of days in preparation or trial of the case. Nor is a lawyer limited to a day charge, who by swift attachment or brilliant legal coup, saves his client from a heavy loss. This class of cases, however, is the exception. The basic charge provides a definite standard by which services can be measured, and which will provide an ample fee."

The writer then takes up the methods used by foremost lawyers and law firms in fixing their charges for legal services.

Illustration of forms to be used, of cards, and of filing cabinets and systems are given. If one were to be critical he would say that if the author has erred it has been on the side of making his work too elementary rather than too complicated.