Notre Dame Law Review

Volume 7 | Issue 1 Article 10

11-1-1931

Book Reviews

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presumptions, under the circumstances of the case, are against the testimony of any one or more witnesses, though such testimony is uncontradicted. *Bronson v. Leach,* 42 N. W. 174 (Mich. 1889). It is not improper for plaintiff's counsel to state to the jury that, out of the whole population of the place, defendant was able to produce but two witnesses to testify that the bell was rung. *Mitchell v. Boston & M. R. R.,* 34 Atl. 674 (N. H. 1894). When there was evidence in such case that plaintiff's sister lived with the parties, and, after plaintiff left, remained with defendant, a remark of plaintiff's counsel that this "sister a whited sepulcher, caused this trouble," was not ground for reversal. *Morrill v. Palmer,* 33 Atl. 829, 33 L. R. A. 411 (Vt. 1895). And see, *Hatcher v. State,* 18 Ga. 260 (1855); *Harris v. Detroit City Ry. Co.,* 42 N. W. 1111 (Mich. 1889); *McNable v. Lockhart,* 18 Ga. 495 (1895).

As is evident from this brief summary, contrariety of opinion exists in relation to the question of weight and sufficiency of evidence; but, in most cases, in which these matters are questioned, the reasons for holding one way or another almost invariably depend on the special circumstances of the case. On this account it is difficult to clearly differentiate between the several opinions without first having recourse to the particular circumstances which necessitated the respective holdings.

Joseph Sitek.

BOOK REVIEWS

MADDEN ON PERSONS AND DOMESTIC RELATIONS (Hornbook Series). By Joseph W. Madden. St. Paul: West Publishing Company. 1931.

This book was designated by the author to furnish the student and practitioner with a concise and convenient text covering the most important and vexatious problems arising in the branches of the law of which it treats. It brings down to date the discussions, notes, and citations upon those problems. It is a timely contribution to the literature of an important subject by an author well qualified to make it. It is timely because of the changes which have come about in the law of the family, the rights and liabilities of infants, and the extension of the control of the state over infants through systems of juvenile courts, during the decade that has passed since the publication of the last Hornbook dealing with this subject. The subject is important because of wide range of legal relations which compose its field. The author, Joseph W. Madden, Professor of Law, University of Pittsburg, is well qualified for such a task because of his wide experience as a student, teacher, and writer upon this subject. Professor Madden has previously published *Cases on Domestic Relations,* assisted in the revision of Whitaker's Annotated Statutes of Ohio, and written numerous articles for legal periodicals. The author has been extremely careful to cite cases, and authority in support of the proposition of law which he asserts. These citations include the leading cases both old and modern, textbooks, and articles appearing in the leading law journals and reviews. The book is thoroughly indexed by topic and by cases cited. The binding is substantial and attractive.

Homer Q. Earl.

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ARANT ON SURETYSHIP (Hornbook Series). By Herschel W. Arant. St. Paul: West Publishing Company. 1931.

This newest addition to the Hornbook Series is something almost unique in textbooks on the law. It is a book written with a thesis, and that thesis is that many of the presumably well settled principles of the law of suretyship are irreconcilable with the ideals of natural and substantial justice. However, the author, who is dean of the College of Law of Ohio State University, does not let his outlook so carry him away that he is incapable of giving a just and a true exposition of the settled law on the question. He maintains a true prospective between his own ideas and those of the courts, and the student is at all times aware as to whether the principles under discussion are based on Mr. Arant's ideas or on the decisions of the courts. Which, of course, renders the book doubly valuable in that it both stimulates the mind to profitable speculation on the law, and gives the law itself none the less completely and precisely.

Briefly the author thinks that logic has played too large a part in the formation of the law of suretyship; that the judges have become dialecticians and not justices. The whole keynote of the author's dissatisfaction seems to center on the surety's equitable right of subrogation as a basis for the surety's defenses and obligations. According to the accepted law on the subject, the surety's defenses and obligations depend upon the impairment or non-impairment of this equitable right of subrogation. Mr. Arant quite decidedly thinks this leads to many ridiculous and unjust situations, and for that reason thinks that a new basis for reasoning and a new foundation for the surety's rights and obligations must be found.

So Mr. Arant quite logically proceeds to find one. He proposes to base the surety's rights on the scope of the risk he assumes, and to estimate the scope of that risk on the basis of his contractual obligations which are to be measured by the common custom of merchants in the region and at the time of the transaction. Doubtlessly this would go far toward the relief of those situations Mr. Arant so abhors. But this writer strongly believes that it is extremely unwise to change the solid and substantial foundations of logical principles for the exceedingly changing and indeterminate criterion of common custom. Certainly the old law in some cases works injustices, but it seems to us a poor policy to compromise a principle because of occasional cases of hardship worked by the principle. Expediency is indeed a harsh taskmaster when once he is permitted to undermine principle.

But however much you agree or disagree with Mr. Arant, the book itself remains a valuable addition to any lawyer's library. It is well written, well organized, and well bound. One of the outstanding advantages in the book is the author's habit of defining the terms considered in each section at the beginning of that section—a habit which all writers of textbooks could well copy. Its distinctions are finely but accurately drawn, and the author's beliefs are clearly marked off from the law as it is. All in all, this is the best of the newer works on the law which has come into our hands in some time.

John M. Crimmins.

CASES AND MATERIALS ON THE LAW OF CORPORATE REORGANIZATION. By William O. Douglas and Carrol M. Shanks. St. Paul: West Publishing Company. 1931.

We have here a casebook for a highly specialized course, in which the material has been well selected and admirably organized. The authors treat of a part of the subject of Finance, confining themselves solely to the consideration of the reorganization or financial rehabilitation of insolvent concerns, or of enterprises under financial stress. They leave the reorganization and mergers

of sound corporations to the general study of Corporations or Finance. The subject is further limited to the consideration of the substantive law, leaving the procedural elements to later consideration under another heading. The cases have been well considered and are chosen with as much regard for their teachability as for their content of substantive law. All of them are fully annotated and the number of cross-references given preclude the possibility of any doubt existing in the minds of the students on the general weight of authority on any of the questions considered.

The book is divided into two unequal parts. The first, and by far the larger part, deals with the process of refinancing by means of an equity receivership. The authors treat this very fully, taking up and considering in turn the pre-receivership claim, the receivership claims, the reorganization plan and agreement, dissenters, committees, and finally the sale. All of these points are thoroughly considered and the thought in each is organized and coordinated by a series of sub-divisions properly marked and subordinated in their proper relations to the others and to the whole. The latter part of the book deals with the process of refinancing by means of a voluntary procedure outside of court. In it the authors consider the creditors' committees and the reorganization plan.

This book should prove a valuable acquisition for those students who have completed courses in Corporations or Finance, and who intend to go more fully into the study of this branch of the law.

John M. Crimmins.

CASES ON THE INTERPRETATION OF STATUTES. By Fredreck Joseph DeSloovere. St. Paul: West Publishing Company. 1931.

In this book cases illustrating the manner and means of interpreting statutes are assembled and coordinated. The increasing importance of this branch of the law is becoming more and more evident in view of the enormous amount of legislation which is each year added to the statute books throughout the country, and which is constantly modifying and restating the more general precepts of the common law, and of pre-existing statutes. The importance of adhering to well settled principles governing the interpretation of this legislation cannot be too heavily borne in the minds of lawyers, both potential and actual. Mr. DeSloovere gives, in this book, a means to the attainment and mastery of those principles.

In his preface, the author logically maintains that the interpretation of a statute is both a science and an art; an art in as much as the solution depends upon individual experience, judgment, and appreciation of the implications of the written work; a science in as much as the solution depends upon a knowledge of jurisprudence, social sciences, and the law.

The essence of a good casebook lies in the proper selection and coordination of the cases on the subject. It is particularly in these two qualities that this book is outstanding. It is divided into four general headings. In the first of these the author treats cases relating to problems precedent to interpretation, such as judicial notice and proof, the functions of legislature, the courts and the jury in interpreting statutes and the nature and principles of construction. In the second part he develops the principles by which courts determine what falls within and without the statute; it deals with the text, context, other parts of the statute, extrinsic aids, and concludes with the problems of statutes in relation to the common law. The third part deals with the problems arising from the interpretation and application of the statute in conjunction with existing law. The last part deals with the operation and effect of statutes, and includes problems

of prospective and retrospective operation, judicial change of construction, and repeal, in which some questions in constitutional law are involved.

The cases in this book are well selected, and chosen for their pedagogy rather than for their elucidation of the law as such. The author makes no attempt to go into the finer points and remoter angles of this question, but selects all of his material with a view to the expansion and development of the main principles on which the art and the science of the interpretation of statutes is based.

John M. Crimmins.

CASES ON PERSONAL PROPERTY. By Harry Bigelow. Second Edition. St. Paul: West Publishing Company. 1931.

Bigelow's second edition of cases on Personal Property varies very little from the former edition in arrangement and material. The cases are a bit rearranged so as to present to the student a better succession of the law from topic to topic.

A few new additions have been made, that is cases dealing with more recent developments as safety deposit vaults, automobiles, etc.

The reviewer thinks it discretionary whether the cases in trust receipts should be included as were some of the other cases, the proper subjects of other courses. *Coggs v. Bernard* has been added and thus should bring out the nature of a bailee's responsibility more clearly.

It is felt that the citation sheets to Corpus Juris, formerly in the back of the book, should not have been omitted. These sheets are of much value to beginning students who have not become acquainted with research and the process of finding the law. (These are not connected with the book necessarily.)

On the whole the work is more accurate with a view of enabling the student to absorb the subject in a more regulated order and prevent confusion as the law is unraveled from chapter to chapter.

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