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Cases on Equity Jurisdiction and Specific Performance

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BOOK REVIEWS

CASES ON EQUITY JURISDICTION AND SPECIFIC PERFORMANCE. Two volumes. By Zechariah Chafee, Jr., and Sidney Post Simpson. Cambridge: Published by the Editors. Pp. xiii, 870; vi, 749.

The subject matter covered in these two volumes follows the general outline of Ames' Cases, dealing with the nature of equity jurisdiction and specific performance of contracts, including equitable servitudes and the vendor and purchaser relationship; and, in addition, materials on contracts for arbitration and appraisal—"statutory specific enforcement of arbitration contracts." The authors' introduction is a most accurate statement of what was sought to be accomplished and it is only left to the reviewer to say how superlatively well they have succeeded. Just when law teachers are trying to be modern in following the suggestion Maitland made a quarter of a century ago, that equity should be distributed all over the legal map, along come Chafee and Simpson announcing that they believe it should be taught as one course, and Holdsworth, soon thereafter, saying that a knowledge of the principles underlying equity "will never be acquired if equity is studied in snippets." Striving for no specific "approach," and with an entire lack of self-consciousness, the subject has been presented adequately and carefully.

The authors might have described their books as "Cases, Materials, Problems, Descriptions, Histories, Dissertations, Designs, Maps, Portraits, *etc., etc.*, on Equity," for of the more than sixteen hundred pages in the two volumes considerably over fifty per cent. comprises materials other than "principal cases," and includes some eighteen illustrations of important places and interesting personalities. These illustrations introduce a human interest which is a delightfully original and intelligent departure in case book composition. Another marked characteristic of this work is the intellectual honesty which has let the authors use sixty per cent. of the cases that were originally used by Ames for the simple reason that they seem to have thought that the problems to be presented to the student were better stated by these earlier cases, and that it was the sensible thing to use them rather than to substitute cases as nearly on all fours with Ames' cases as diligent search could uncover.

And—shades of law teachers of whom the world has never heard—if it is desired to let the student know that the earth is

round, it is here so stated without having a case to develop this fact. Indeed, these books may be a solution of the long observed student restlessness with reference to the study of cases *ad nauseam*. What a shocking thing it is to let the student get direct information! Why let students know that Leicester Square was a real place about which real people really quarrelled and fought just because the doctrine of equitable servitudes was developed in connection with it? How much better to leave them with the feeling that it was some such place as Greenacre or Brownacre in an examination question.

In fact, all through these books the authors have departed from the specifications which the modern publishing houses would have stipulated when they proceed to tell the law teachers what the up-to-date young law instructor will use next season. It will be terrible for publishers if law instructors should evidence a consumer's demand for more books like these. For such books cannot be contracted for "with manuscript in final form to be submitted in eighteen months from the date hereof."

The lawyer who has to deal with equity will need these books as much as will the student in law school. He will probably find in them the answer or the place where he can find the answer to any problems arising in the field covered by these volumes. And, believe it or not, there is an index of eighty-eight pages, two columns to the page, to say nothing of about one hundred and fifty pages more of various tables to make the materials included in the books findable and useable. The student who uses Chafee and Simpson's Cases and does not keep them as his reference books on all matters therein covered must be one who is either on the dole or who has taken the course merely as an intellectual exercise and does not thereafter expect to deal with equity.

As in every after-dinner speech, there comes a time when the speaker must say — "Now, speaking seriously", — so in a book review there comes a time when the reviewer must make a criticism so as to put himself in a good light with the reading public that does not read book reviews. The best this reviewer can do at the present time is to express the regret that some of the chapters have not been formally or more fully divided into sections.

In general, Chafee and Simpson's Cases are most discouraging books to the young instructor about to put his name on the back of a volume, for most likely the case book field will never again

look quite the same to him or seem to be as easy a field for authorship, — but we will have better case books hereafter.

Thanks, Mr. Chafee and Mr. Simpson, for these books.

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THE EFFECT OF AN UNCONSTITUTIONAL STATUTE. By Oliver P. Field. Minneapolis: The University of Minnesota Press, 1935. Pp. xi, 355.

This book is a timely and significant one, in view of the present trend of Congressional Legislation. When new and far-reaching laws, which in many ways change the fundamental structure of government in this country, are being constantly brought before the United States Supreme Court to test their constitutionality, the material in this book becomes especially significant. This is true of State laws as well, as many of them are intended to follow Federal legislation, and must meet the test of constitutionality under the constitutions of the respective States.

The author has covered his subject thoroughly. Constitutional law cuts across other fields of law, and the same is true when one seeks to state the effect of any holding of a statute as unconstitutional. Through the whole volume there runs the central theme indicated by the name of the book. In the twelve chapters into which the work is divided the author covers practically every important relation of his topic to other branches of law. This work will complement in an excellent manner, the ordinary case material used in the teaching of Constitutional Law, as that title is usually understood. In fact, the introduction, which is the first chapter, is excellent supplementary material for the usual course in Constitutional Law, aside from its relation to the specific phase covered by the volume.

The fact that several chapters had been published as separate articles in different law journals, tends to give a somewhat disjointed effect in reading the volume, but this is not sufficiently noticeable to be really objectionable, because of the integral relation of the material in those chapters to the general subject. The style in which the book is written may not appeal to some of its readers, because of the way in which court decisions are woven into the text, rather than having the statement of the author based