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Recent Legal Literature

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RECENT LEGAL LITERATURE

THE ELEMENTS OF THE LAW OF NEGOTIABLE INSTRUMENTS. By John W. Daniel, of the Lynchburg (Va.) Bar and author of "Daniel on Negotiable Instruments"; and Chas. A. Douglass, of the Bar of the District of Columbia, and Professor of the Law of Negotiable Instruments in Georgetown University of Washington, D. C. New York: Baker, Voorhis & Co. 1903.

This is a work designed exclusively for the use of students and instructors in law schools. It is the joint production of Mr. Daniel, author of "Negotiable Instruments," and of Mr. Douglass, of the Law Department of Georgetown University. The result of this joint undertaking is a text-book of about 350 pages, which bears evidence of special adaptability to the needs and requirements of those engaged in the preparatory study of law. There is added in an appendix "The Negotiable Instruments Law" as enacted by the legislature of New York. Most of the material comprising the book and much of the language and arrangement are taken from Mr. Daniel's excellent treatise, now passed into the fifth edition. This fact is a sufficient guaranty of the quality of the material, because it may be said without disparagement to others that no one has treated the subject of negotiable instruments with more of comprehensiveness and more of detail than Mr. Daniel and that no one has elucidated the subject with equal clearness and grace of expression. The selection and limitation of the material to bring the book within the compass of preparatory study is the work of Mr. Douglass. The announced purpose of the authors is to afford students "the substantial benefits of the point of view and professional experience of the lawyer-author and of the lecturer's practical appreciation of the usual difficulties attendant upon the study of law."

Measured by standards applicable to text-books, "The Elements of the Law of Negotiable Instruments" is a meritorious work and will doubtless win favor with all those who approve the text-book method of instruction.

In form and arrangement the book leaves nothing reasonably to be desired..

ROBT. E. BUNKER

THE LAW OF REAL PROPERTY AND OTHER INTERESTS IN LAND. By Herbert Thorndike Tiffany. 2 Vols. pp. xxxiii., 1589: Keefe-Davidson Company, Saint Paul, 1903. (\$12.00.)

This is an admirable work. It is evidently the production of an intelligent student of the best authorities, who has been able to state the results of his studies concisely and accurately.

He has given us a clear statement of the fundamental principles of American land law in compendious form, while, at the same time, his treatment is not so general as to omit the necessary consideration of qualifications, distinctions and exceptions. The author's success in compassing within two volumes the law of real property, without ignoring either its sources and historical development or the doctrines of modern times, is due to the orderly disposition of the parts of his subject, and to his style.

The different branches of the subject are treated in such an order that there is a gradual unfolding of the law, and the relation of the parts to the whole is presented without the repetition which a less logical arrangement

would have made necessary. Each part fits well into what has preceded and what follows. This methodical arrangement characterizes the subdivisions of the work.

Moreover, the author's style is succinct and, almost everywhere, attractively perspicuous.

There is little criticism of accepted doctrines, and perhaps some will find too little extended commentary. Where, however, conflicts and doubts exist, the causes of them are generally briefly and clearly stated, and decisions and treatises are referred to, with the assistance of which the reader may continue his studies on special points of difficulty. There are few quotations, but every important statement in the text is confirmed by the citation of recognized authorities. It is apparent that no attempt has been made to refer to all relevant decisions, but rather to select those most appropriate, yet the table of cases indicates that about 14,000 cases are cited; and it is plain that they have been read and digested. Moreover, reference is constantly made to leading treatises.

The scope of the work, the author's manner of treatment, and the ample citation of authorities will make the book of great value to the practising lawyer, while, at the same time, it seems admirably adapted for use as a text in any school where real property law is taught from text-books.

To say that the work is wholly free from blemish or defect would be an exaggeration, but such of these as we have noticed are, when compared with its general excellence, really so unimportant as hardly to deserve mention. For example, the author's agreeable style is curiously marred in one place (p. 1006), by such a sentence as this: "In the majority of the states, land owned by a municipality, and devoted to uses of a purely public character, as when the 'fee' of a street or park is vested in the municipality, or land is conveyed to the municipality for a public building, hospital, or the like, the municipality is regarded as merely the agent of the state, and its rights cannot be divested by adverse possession, though in a number of states a different view obtains."

Such a slip as putting "purchaser" where "vendor" is intended (p. 767, line 9 from top), may, perhaps be attributed to the printer—though, in passing, it must be said, in justice to the latter, that the mechanical execution of the work is first-rate.

In treating of a surface owner's rights to everything below the surface (pp. 515, 516), the author might have mentioned the "extralateral right" of modern mining law, and explained, in his lucid manner, that it is not really, as it is often stated to be, an exception to the doctrine he discusses at this point; then had he given a cross-reference to a later page (p. 838), where he refers to the locator's right "to follow the vein across his side lines," all misapprehension would have disappeared.

It seems that direct reference might well have been more often made to important statutes as they now exist in the latest revisions or compilations, rather than through the medium of Stimson's American Statute Law, for, valuable as that work is, it is not always accessible to the reader who may wish to know whether his statutes touch the point, and, moreover, important amendments have been made to statutes since Stimson's great work was issued.

It seems, too, that the "L. R. A." series might advantageously have been referred to, as well as the American Decisions, Reports, and State Reports, which the author so judiciously cites.

And the Index might have been improved by a little amplification and better arrangement.

But, after all, we believe that even the most captious critic will discover little about the work that materially lessens its real value.

The author and publishers have well earned the gratitude of every student of real property law.

JAMES H. BREWSTER

THE LAW OF SURETYSHIP. Covering personal Suretyship, Commercial Guaranties, Suretyship as Related to Negotiable Instruments, Bonds to Secure Private Obligations, Official and Judicial Bonds Surety Companies. By Arthur Adelbert Stearns, of the Cleveland Bar. Cincinnati: The W. H. Anderson Co. 1903. One volume. Sheep. Pp. xvii; 747.

This book is designed for the use of practitioners. The best and only reliable test of such a book is the practical test, by which is meant the test of everyday use in the lawyer's office. The practitioner does not read a text-book in course; he consults it as occasion demands. The prime requisites of such a book are exhaustive and thorough treatment of the subject, clear statement of principles, a reference to the authorities from which the principles are extracted, and a full index. These requirements are fully met in the book which is the subject of this review. One thing will particularly attract the practitioner: there are 80 pages of index to 550 pages of text. The proportion is unusually large and this feature of the book is exceptionally valuable. This book will lessen and lighten the labor of the practitioner; will afford him ready access to the leading principles of the subject, and will give him references to cases from which those principles are drawn. A text-book which does not furnish such aid to a practitioner is of little value to him. Nor will he be content to find only a digest or abstract of cases; he has a right to expect substantial aid from one who has made a special study of the subject, as everyone must who prepares a text-book, good or bad, upon a given subject.

The writer has undertaken to form an opinion of the work which is the subject of this review, by putting the book to the test that the practitioner would put it to day after day, and to that end he has investigated, as far as he has been able, such questions as he was able to anticipate, with the endeavor to determine how readily and fully the book affords information. The result has been highly satisfactory and this fact leads him to the opinion that the practitioner will find in "The Law of Suretyship" a valuable addition to his working library. Nearly five thousand cases are cited, which the author claims illustrate all the distinctive features of the contract of suretyship. The author does not pretend to treat those features of suretyship made exceptional by statutory provisions or special conditions.

The profession, it is believed, is anxiously waiting for a good work on the law of suretyship. If Mr. Stearns has not fully met the needs of the time in this regard, he has added to the law of suretyship that which will be of substantial value to practitioners. For these and other reasons "The Law of Suretyship" is commended to the profession.

ROBT. E. BUNKER