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Review: A TEXTBOOK ON LAW AND BUSINESS

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A TEXTBOOK ON LAW AND BUSINESS. By William H. Spencer. Chicago: The University of Chicago Press. 1929. Pp. ix, 1116.

Dean William Spencer has made a praiseworthy effort to set forth the legal aspects of business problems in a manner which should appeal to both the average layman and student of business. He departs from the usual plan of treatment of his subject, believing that the legal phases of business should be taught "in terms of functions, relations, or problems of the business man, and not in terms of the order in which the law has developed."

Few textbooks on business law published to date have combined in such a successful fashion the satisfying qualities of content, organization of mate-

rial and comprehensiveness of scope. It will undoubtedly supplant many texts now in use in schools of commerce and business administration.

The text follows the outline of the author's *CASES ON LAW AND BUSINESS* and is intended to supplement that three-volume work, though the text might well be used independently. The only criticism here is that he makes frequent footnote reference to his cases at the expense of a complete treatment in the text, assuming the student will have access to those case books. For example, in dealing with transactions in goods, wares and merchandise falling within or without the statute of frauds, Dean Spencer cites¹ the Massachusetts rule relating to goods to be manufactured especially for the buyer and then notes that that view has been adopted by the Uniform Sales Act. It would have been well to set forth the pertinent sections of that codification² in the text inasmuch as the question is omitted in his treatment of the sale of personalty, except by footnote reference (p. 483).

The author's text on law and business has been divided into three parts:

Part I, entitled "Law and Economic Order," contains two chapters devoted to a brief discussion of the law as an agency of social control and an examination of the nature and meaning of law in which the author develops the history of the common law, equity and the law merchant.

Part II, entitled "Fundamental Principles of Law," comprises Chapters III-VII.

In Chapter III is an exposition of the judicial organization in the United States (federal and state judiciary), the various forms of action, pleadings, trial and review.

Chapter IV deals with the contractual capacity and tort liability of natural persons and more especially, minors and insane persons. Mention is made of the juristic personality of corporations but a study of their contractual capacity is properly consigned to later chapters where the doctrine of *ultra vires* is expanded.³ For its historical interest, note might have been made of the common law disability of *femmes covert*.

In Chapter V, Dean Spencer examines first, the various tort liabilities of normal persons and secondly, their contractual liabilities. His treatment of liability in tort is an extensive one and novel in some respects so far as college texts on business law are concerned. For example, he examines the action of deceit and sets forth the elements of fraud, dealing with it entirely as an affirmative action without definitely noting its effect in contract, dismissing that problem in one paragraph in a later chapter.⁴ The effect of fraud as constituting personal or real defenses to actions brought on negotiable paper is properly set out in a subsequent chapter.⁵

In handling the subject of contract liability and agency in Chapters V and VI, the author follows for the most part the usual plan found in the average textbook dealing with those problems. His exposition of the *Lawrence v. Fox* type of case and the modifications of the doctrine developed therein is excellent.⁶

¹Text p. 249.

²Uniform Sales Act, sec. 4 (1)-(2).

³Text p. 1023 *et seq.*

⁴Text p. 192.

⁵Text p. 660-665.

⁶Text p. 222 *et seq.*

Chapter VII covers the law of private property in a manner not generally found in most texts. It includes such topics as patent and copyrights, the various estates in land, the transfer of ownership of personal and real property *inter vivos* and by *intestate* and *testate* succession; all of which are developed with a clear and interesting style.

Part III comprises five chapters devoted to an examination of the application of legal principles to business activities. In the opinion of the reviewer, the material in Part III, together with that in Chapter VII, go to make up the heart of the book, set it apart from other texts, and deserve much praise.

Chapters VIII and IX deal with the law in relation to the market and to finance. Problems involved in bailments, sales, bills, notes, checks, mortgages, powers of creditors and the privilege of debtors are developed in an intelligible manner.

Chapters X, XI and XII treat of law and risk-bearing, law and labor, and the legal aspects of the different types of business organization. They include such topics as speculative contracts (risk-shifting devices), insurance, employers' liability (under the common law and by virtue of compensation legislation), competitive labor practices and injunction relief therefrom, devices for raising capital, powers and obligations of the business unit (corporation, partnership, etc.), duties of its members, and the rights of its creditors.

Dean Spencer's treatment of the material in Part III is commendable. It is an attempt to put the teaching of business law on a sound footing. The content of business law courses should be built up carefully. The author's text reveals an effort to keep such study up to date. If such a book is to command the respect of both teacher and student it should keep abreast of actual business conditions. The student in a school of business is interested chiefly in that which is useful in the current transaction of business affairs. Spencer's *TEXT ON LAW AND BUSINESS* should amply satisfy those requirements.

The book is closed with a table of cases cited in the text and an index which, for the business student, is entirely adequate.

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