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Book Reviews

THE LAW OF SPORTS, By John C. Weistart and Cym H. Lowell, The Bobbs-Merrill Company, Inc., New York, 1979, Pp. 1154.

Bernard Shaw was once quoted as saying that “[T]he only way of preventing civilized men from kicking and beating their wives is to organize games in which they can kick and beat balls.” Whether or not it was Shaw’s urging, games have been organized . . . and organized . . . and organized . . . Today, more men are kicking and beating balls than ever before, and, in front of larger television and stadium audiences.

All across the country, wives are leaving arm chair quarterbacks glued to weekend football games. Football coach and former Chairman of the President’s Council on Physical Fitness, Bud Wilkinson, put the irony in football so appropriately when he stated that never before have 100,000 men who desperately need exercise repeatedly paid so much to watch twenty-two men who desperately need rest. The sudden sports boom of the last decade has not only generated superfans, superdomes, super bowls and superstars but also superbucks. In the 1970’s, sports has grown into a booming industry involving billions of dollars a year, in both amateur and professional athletics.

In this book, Weistart and Lowell offer a most exhaustive legal analysis of a sports industry in which the authors relate as one of vast contours “from the playing fields of elementary schools to the cavernous stadiums in which professional football games are played; from the aristocratic stables in which pure-bred horses are trained to urban gymnasiums in which aspiring boxers prepare for their bouts; from the negotiating tables at which collective bargaining is conducted between representatives of owners and players to the tax planning that precedes the negotiation of an individual contract between player and team; from the grace of an Olympic gymnast to the violence that is frequently found in football and hockey; from the acquisition of elaborate equipment to build strong bodies to the injection of drugs to enhance performance; from the often informal administration of amateur athletics at the local level to the very formal procedures of the

United States Congress as it deliberates over legislation proposed to regulate some aspect of athletics; from the often simplistic legal issues posed by an injury in a game to the frequently intransigent technicality of a federal antitrust challenge to a rule of a professional league; and from the terms of a collegiate scholarship to the rules relating to pari-mutual betting.”

Weistart and Lowell extensively cover each area in the first hornbook ever dedicated to the expanding area of sports law. Their work is not only broad in its coverage but deep in its analysis and research. While the ever increasing area of special sports related problems receive direct legal analysis, those more general areas involving agency, contract, products liability, tax and labor law are applied to the unique circumstance of the sports industry as a whole.

Weistart and Lowell provide the attorney with the starting place for all the information necessary to represent his first athlete or to start his own franchise: from the regulation of amateur athletics to regulation of public sports activities; from legal relationships in professional sports to the enforcement of professional sports contracts; from antitrust aspects to collective bargaining in professional sports; and from income taxation for both the athlete and franchise to new areas of liability for sports related injuries.

In sum, *The Law of Sports* is an extensive and well written hornbook which is, to date, the very finest legal work on the rapidly developing sports industry.

It has been said that a lawyer is a man who gets two people to strip for a fight, and then runs off with their clothes. With increasingly complex contract and business negotiations, tax planning, regulation and litigation, sports law will continue to develop whenever men strip for a fight, game or match. Competent lawyers will manage and advise athletes, teams and organizations with *The Law of Sports* as their foremost tool of trade to date.

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FEDERAL PROCUREMENT LAW, Vol. I (3rd. Ed.) By Ralph Nash and John Cibinic, Published by George Washington University, Washington D.C., 1977, pp. 938.

Previous editions of this work (1966 and 1969) have been greeted with enthusiasm by reviewers for its value to "lawyers searching for materials on a given subject who must come up with a position within a reasonable time."¹ This work will be greeted in a similar manner because it is essentially a more complete volume of the same material.

Federal Procurement Law, a casebook, differs from other recent textual volumes in certain areas of procurement law, such as *Government Contract Changes*² or *Government Contract Bidding*.³ The latter are meticulously organized by subdivisions, references at the end of each chapter, examples of regulations, and include contract forms and clauses used in Federal Procurement. A casebook, on the other hand, is primarily a law school teaching tool referring to leading cases in a particular field of law. *Government Contract Bidding*, an excellent 610 page volume on bidding, compares to the 94 page section in the Nash-Cibinic volume specifically dealing with bidding which includes edited texts of the decisions published in the larger volume.⁴

The first edition of this work is primarily concerned with "contract formation" but covers subjects including the power and authority to contract, types of contracts, public policies in the procurement process, government assistance to contractors, funds used in government contracts, rights to intellectual property, the relationship between federal and state taxation, and the law governing federal contracts. The second edition, published in 1969, extensively discusses "performance" related problems. The third edition contains edited versions of 28 new court decisions, seven new Board of Contract Appeals (BCA) opinions, and 23 new Comptroller General (CG) decisions. The notes following each of these cases present digest versions of old and new court decisions, BCA opinions and CG opinions. These cases offer a form of textual readings relevant to the general subject matter covered by

1. Gantt, 29 FED. BAR J. 144 (1969).

2. R. NASH, GOVERNMENT CONTRACT CHANGES (1977). Ralph Nash is a co-author of FEDERAL PROCUREMENT LAW.

3. P. SCHNITZER, GOVERNMENT CONTRACT BIDDING (1976).

4. J. WHELAN & R. PASLEY, FEDERAL GOVERNMENT CONTRACTS (1975).

each principal case. The third edition includes many recent cases that were not covered by the second edition, doubling the number of note cases. Unfortunately they have no titles and do not necessarily follow any logical pattern; hence it is necessary for the attorney or student to peruse them at some length in order to ascertain whether one of them might be of peculiar significance to a matter which he is researching.

The new cases and additional notes are well-selected and set forth the recent trends of the various federal agencies, courts and the Boards of Contract Appeals with respect to the procurement process. The authors, do not, however, attempt any evaluation of those regulations, decisions or opinions. The volume is only a law student's or lawyer's descriptive sourcebook and cannot be used as a source of an evaluation of any agency or tribunal concerning this very significant field of law. This is not a criticism because casebooks are generally written (edited) with a view toward letting the reader judge or criticize the law being discussed. The volumes were designed as texts to two, three-unit L.L.M. courses covering Contract Formation and Contract Performance plus a two unit L.L.M. course covering claims and litigation. One difficulty that might arise is that many law schools may wish to teach the respective courses with a more concise volume.

At present, the only other casebook on this subject is by John Whelan and Robert Pasley. A comparison of Whelan-Pasley and Nash-Cibinic reveals that both books are excellent in spite of their different characteristics. For example, the Whelan book has a table of cases whereas the Nash-Cibinic has a table of cases and an index to CG decisions, BCA decisions, statutes, executive orders, regulations, and attorney general decisions. The Nash-Cibinic volume is easier to use as a research tool except that it does not include the section on performance to be covered in Vol. II. The note cases in the Nash-Cibinic are more extensive than in the Whelan book and are usually more detailed. The Nash-Cibinic book appears to be designed more for the practicing attorney or for one who has more experience in this field. The Whelan book appears to be geared more toward students but can be of great value to attorneys. The Nash-Cibinic book goes into a detailed discussion of contract formation principles and has a short section on taxation. The Nash-Cibinic gives a more extensive treatment to the different kinds of government contracts. The book also discusses intellectual property rights (patents and technical data). Despite the more complete nature of the two Nash-Cibinic volumes, the single Whelan-Pasley book may continue to be the choice of the law schools which offer a shorter academic course. However, no other existing work contains the excellent

material found in the Nash-Cibinic volume. It is the only existing work that gives an excellent extensive discussion to the field and is designed for practical use by both government and private attorneys.

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