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Book Reviews

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BOOK REVIEWS

THE ROAD TO THE LAW. By Dudley Cammett Lunt. New York. Whittlesey House, McGraw-Hill Book Co., Inc. 1932. pp. XIV, 281.

The author of this book is a lawyer, a member of the bar of Delaware and of Maine. One might infer from this fact and the title that this book is written primarily for lawyers, but apparently this is not true. It is rather an attempt to state elementary legal doctrines in terms understandable to the layman and give interesting phases of their application in court.

The topics treated in the fourteen chapters include rights in wild animals, rights of a finder, accession, confusion, rights of squatters, use of property, vicarious liability, contributory negligence, domestic animals, protection of property and the person, equity, criminal law, sales, gifts, disposition of property by will and legal education. These topics are treated through the medium of famous cases. Among the cases referred to are *Armory v. Delamirie*, *Butterfield v. Forrester*, *Davies v. Mann*, *Deerfield v. Arms*, *Lumley v. Gye*, *Lumley v. Wagner*, *Pterson v. Post*, *Rylands v. Fletcher*, *Silsbury v. McCoon*, *Thorley v. Kerry*, *Winterbottom v. Wright*. The list includes nearly one hundred cases, many of which are familiar to law school students. The final chapter deals with the modern law school.

There is a suggestion (page 148) that certain phrases in the "Gettysburg Address" indicate Mr. Lincoln was familiar with Chief Justice Marshall's opinion in *McCullough v. Maryland*. The words "ships and shoes and sealing wax" (page 202) likewise indicate the author may have read "Alice in Wonderland," or at least the part about the walrus and the carpenter.

The description of the execution and attestation of James Anthony's will, at the Wall Street office of his attorney, is quite realistic. It is doubtful, however, whether Mr. Hawkins used the word "signature" in the fourth line from the bottom of page 224. The New York law requires that a will be "subscribed" by the testator. The word "signature" does not appear in the statute.

The list of illustrations included Westminster Hall, Court of Kings Bench, Court of Common Pleas, Court of Exchequer, Fleet Prison, Court of Chancery, Old Bailey and New Gate Chapel.

Although written primarily for the layman, this volume may also prove to be quite interesting to members of the profession.

WOODSON D. SCOTT.

No. 25 Broadway,
New York, N. Y.

CASES ON BUSINESS LAW. 2nd. Ed. Britton and Bauer. West Publishing Company, St. Paul. Pp. XXXI, 1219.

This casebook is designed for the use of students in the colleges of commerce and business administration. The size of the book has been reduced by three hundred pages in the present edition. New sections have been added on the parol evidence rule, independent contractor, parent and subsidiary corporation, and non-par stock. The Bank Collection Code is given a prominent position.

Eighty cases decided since the presentation of the first edition have been included in the second edition. Eighty-six similar cases are included in the footnotes. The footnotes, while not full, do contain quite a bit of reference material.

The book is divided into six parts, following an introduction to the study of law. Part I deals with cases on Contracts, Part 2 with Agency, Part 3 with Negotiable Instruments, Part 4 with Sales, Part 5 with Partnership and Part 6 with Corporations. It is believed that the book will fill the need for which it was intended.

ROY MORELAND.

CONSTITUTIONAL DEVELOPMENT OF THE LEAGUE OF NATIONS. By Paul K. Walp. University of Kentucky Press. 1932. Pk. 183, \$2.00.

It is no easy matter to attempt to trace the constitutional development of an institution at the end of the first decade of its life. This is especially true in the case of the League of Nations, for if the League is not strictly speaking a world ship of state, it is at least a new type of political ship and one which was launched upon stormy waters and which had to steer its course cautiously through treacherous uncharted seas. While efforts to trace the course thus far are welcome, sufficient perspective is still lacking for present efforts to be crowned with much success.

The title is wider than the study, for the book deals primarily with the relationship between the Council and the Assembly. It is significant that Doctor Walp devotes nearly half of the book to the development of the plans leading up to the final draft of the Covenant. This may be justified in early studies of this sort, but ought to be unnecessary in the future. The study would have gained in clarity if the development had been traced topically rather than chronologically. The effect of the enlargement of the Council in 1926 upon the relationship between the Assembly and the Council receives inadequate discussion, indeed it is only incidentally mentioned. Likewise, the importance of the Assembly control over finance and the discussion of the general policy of the Council and the Secretariat at the time of the adoption of the budget might have received more extensive treatment.

Professor Walp has done pioneer work in a difficult field. He has given students of international organization a valuable summary of a phase of the constitutional development of the League of Nations during its first decade of life.

AMRY VANDENBOSCH.

RESTATEMENT OF THE LAW OF CONTRACTS. By the American Law Institute. American Law Institute Publishers, St. Paul. 1932.

The two-volume edition of the Restatement of Contracts, bound in maroon fabrikoid, would be an attractive addition to any law library, and fortunately the publication has uses other than that of office decoration. The Restatement is the result of the joint efforts of the universities, bench and bar to sum up and state the common law of contracts in clear and concise language. Most of the statements are declarations of the law which have been accepted and applied by the courts, others represent a choice between conflicting views. In these matters there is no question but that the Restatement will be accepted as at least "a *prima facie* basis on which judicial action will rest." It is a result of ten years of labor by our foremost writers and jurists; every stated rule has been subjected to the acid test and approved not only from a theoretical but also from a practical standpoint. There is not much doubt but that advanced courts will accept the Restatement as presumptively correct in its entirety and that they will follow it in deciding questions new to the jurisdiction and those on which there is a conflict of authority. Many sections have thus been stamped with the approval of our own Court of Appeals.

Some statements, such as those contained in Sections 45 and 90, are comparatively new as stated rules of law, but they are no more than a clear, frank acknowledgement of the results which have been reached in scores of cases by straining facts or warping other rules in order to attain justice.

Although there is bound to be a resulting tendency toward a desirable uniformity of decisions, it is not expected that the Restatement will be slavishly followed in all cases. But it is clear that future variations from the generally accepted common law rule will be knowingly and intentionally made and not, as has been too often the case, the result of an accidental use of words or ignorance. Above all we can expect a greater certainty and uniformity in legal terminology. Further, it gives us a pattern on which we can lay our legal materials.

This does not mean that the work is perfect in itself and above criticism. The objection may be made that the Restatement is just another text book, a collection of abstract rules, untrustworthy as such and uncertain in application. This defect has been largely corrected by the inclusion of commentaries and illustrations. But some of the statements, such as the one approving the doctrine of promissory estoppel, are so all-inclusive that they are much in advance of the courts and lend themselves to misapplication and risk a repudiation *in toto*. Other statements are too brief and lacking in detail. For example, the whole body of law applicable to the formation of implied contracts is dealt with in less than three lines in Section 5 and this brief statement hardly begins to cover the legal rules applicable to such contracts.

In other cases, seemingly for the sake of brevity or in an attempt to group rules in a limited number of sections, the established language of lawyers and courts has been changed or the order reversed. It seems that it might have been better, or at least easier to understand and more in keeping with our legal language, if the definitions of consideration, for example, had been stated affirmatively rather than in the negative form employed in Sections 76 and 84.

At least one statement is misleading. In Section 20 it is said that real or apparent intent that the promises shall be legally binding is not essential to the formation of a contract. This may be explained, but since the purpose of a restatement is to clarify the common law, it should not contain equivocal statements or those requiring detailed explanation.

One of the possible objections to the Restatement as it now stands will be removed by the publication of the state annotations. These annotations, if properly done, will change the publication from an abstract authority to a useful working tool of the profession. It is to be regretted that the annotation is not to be printed immediately following the rule of law concerned.

An exceptionally good index adds much to the utility of the publication.

The price of twelve dollars for the two volume set, although much less than the probable worth to the practising attorney, seems too high under present conditions, and it is to be feared that the Institute will defeat its own purpose by placing the results of its work out of the reach of many.

FRANK MURRAY.

CASES ON EQUITY, Vol. I. Second Edition. By Walter Wheeler Cook. West Publishing Company, St. Paul. 1932. Pp. XXI, 680.

CASES ON EQUITY, Vol. 2. Second Edition. By Walter Wheeler Cook. West Publishing Company, St. Paul. 1932. Pp. XV, 662.

CASES ON EQUITY, One Volume Edition. Second Edition. By Walter Wheeler Cook. West Publishing Company, St. Paul. 1932. Pp. XXI, 1222.

In response to the requests of teachers using the first edition of Professor Cook's casebooks on Equity a second edition has been offered to the profession by the publishers. As in the first edition, three volumes compose the series. The cases and other selections in the first volume are intended to offer material for an introductory course on equity. The second volume deals with the problems of specific performance. The third is devoted to the field of equity and quasi-contracts. A fourth volume is a condensation of the materials in the other three for those schools whose courses of study are so arranged as to give less time to the study of equity than the other three volumes contemplate.

The second edition differs chiefly from the first in that materials have been added dealing with Bills of Peace, Bills of Interpleader,

and Bills Quia Timet, and to Remove Cloud on Title. In addition a few cases dealing with Declaratory Judgments have been inserted in order to suggest how this new remedy may be used to obtain relief in cases in which for technical reasons the older remedies are not available. These additions have been made at the request of teachers who have used the previous edition.

The materials have been brought down to date by the insertion of new cases. Quite a number of other cases are summarized in the footnotes. In addition references are given in some instances to notes or articles in various legal periodicals. Apparently Professor Cook's acquaintance with the legal periodical field is limited to the law reviews published by two or three schools on the eastern seaboard and the University of Michigan. There are valuable articles in some of the other reviews to be found by those who care to search for them.

It is believed that the second edition of this series of Cases on Equity which brings the materials down to date and cures certain important defects to be found in the first edition is a timely contribution.

ROY MORELAND.

College of Law,
University of Kentucky

REVIEW OF FINDINGS OF THE PRESIDENT'S RESEARCH COMMITTEE ON SOCIAL TRENDS. 1933. (New York City: Offices of the Committee, 230 Park Ave. Pp. LXXV.)

This summary, which constitutes the introduction to the report of the Committee on Social Trends, indicates that the Committee has made some particularly sensible attacks on numerous problems of social life facing the public at the present time. The summary comprehends problems of physical heritage, problems of biological heritage, problems of social heritage, and some suggestions respecting social policy. The most interesting parts of the summary for the lawyer are found in Part III, which includes a section on the cost of government, one on law, one on changes in governmental structure, and one on international problems.

JAMES W. MARTIN.

Bureau of Business Research,
University of Kentucky

TAXATION IN MINNESOTA. Roy G. Blakey. (Minneapolis: University of Minnesota Press. Paper \$1.00. Cloth \$2.00. Pp. XII, 627.)

Those who are familiar with Professor Blakey's admirable report on *Taxation in West Virginia* have looked forward with pleasure to the publishing of the more extensive and better supported study of *Taxation in Minnesota*, on which he has been working during the past year. The volume which has resulted from Professor Blakey's activities is a much better one than is the study of *Taxation in West Vir-*

ginia, particularly in that it is more finished and less verbose. The editing in this instance has been especially well done, while the West Virginia study exhibited obvious evidences of haste. Undoubtedly this more fortunate result is due in large part to the longer time and the better trained and more adequate staff associated with Professor Blakey in the Minnesota work. It appears that the active staff has included altogether approximately forty people in addition to the consultants who apparently have been active.

The authorship of each of the various chapters is indicated in the volume itself. Professor Blakey has been wholly responsible for only three or four chapters, but the various other divisions of the volume show clear-cut results of his supervision, and in some instances of his revision. Moreover, Chapter II on "What Constitutes a Good Tax System" and Chapter XV "The State Income Tax," the individual work of Professor Blakey, are in many respects the best in the entire volume. The latter is certainly the most extensive.

Tax students outside of Minnesota will be glad that these studies are much more than an analysis of the situation in Minnesota. Indeed most chapters constitute substantially a comparative analysis of state and local taxation throughout the United States. Certain aspects of the state and local tax problem are relatively understressed or omitted altogether. On the other hand, certain problems, not specifically in the field of taxation, which have contributed directly to the purpose of the investigation are included. For instance, there is a substantial analysis of public school finance (dealing almost exclusively with the situation in Minnesota), which is only indirectly a tax problem. Moreover, in connection with highway finances certain parts of the chapter concerning highway costs, debts, and other matters not directly involving taxation are included. A brief study of inheritance and estate taxes and sales taxes are put in the appendix. The reason for this is not clear since both appendixes are excellent summaries. Certain other statistical data are also shown in the appendix.

The volume is equipped with an analytical table of contents and an excellent index. In every respect it appears that Professor Blakey and his associates are to be congratulated on both the content and form of the volume.

JAMES W. MARTIN.

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