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Book Reviews

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BOOK REVIEWS

CASES ON THE LAW OF MUNICIPAL CORPORATIONS. By E. Blythe Stason. St Paul: West Publishing Company. 1935.

The law dealing with municipal corporations is one of the few branches of the general law that may be said to be particularly our own, originating, ripening, and maturing almost entirely within the confines of our own country. Because of this it is a law that is comparatively young, for over one hundred years ago when there were few cities of any size, when life in a metropolis had not assumed the complex forms that it now possesses, there was little need for any sort of rules and regulations dealing with municipal corporations. But changing conditions brought the modern city, and in the van of this new arrival came many problems with which the established order was unable to cope—and so arose the Law of Municipal Corporations. But despite its relative youth, this division of the law is of great size, so large in fact that it is impossible for it to be adequately covered in all its phases in the average law school course.

Being well aware of this, the author of this Casebook sought to remedy the situation by selecting cases which emphasized the most important propositions in the Law of Municipal Corporations as it is today. Many of the cases reported herein are very recent ones, and the author sought by these to show the problems confronting municipal corporations at the present time. The subjects covered were chosen with a view to this particular end, and the chapters on "Municipal Contracts and Liability Thereon" and "Municipal Indebtedness and Liability Thereon" deal with topics of current vital importance. It was thought that by thus limiting the number of cases in the book, each one could be more intensively studied, the author believing that such a method of approach would be more beneficial to the student. These selected cases are well foot-noted, and the citations found in the notes serve to clarify and supplement the main cases, to differentiate borderline cases, and as the author says in his Preface, to "provide references and to encourage excursions into the wealth of material dealing with pertinent phases of economics and political science."

A very important portion of the work consists of quotations from statutes and constitutional provisions regarded as typical of the points exemplified in the cases. These are found in the different sections either in the body or in the footnotes. A word about these footnotes. As already indicated, they are distinctive in that the citations found therein do not refer exclusively to cases but also to the writings of those who have delved into municipal problems from the economic and political angles. Besides these, there are references to law reviews. This material tends to show the relationship that exists between the functions of city government and the Law of Municipal Corporations. This Casebook, though, is not one that teaches by means of the footnotes. In choosing his text matter, the author selected only those which were the leading cases on the subjects covered; he intended the footnotes to those cases to further instruct, and not to confuse. This is a modern casebook in every sense of the term, having been carefully prepared with the primary intention of making available a work which would be best suited to class work in the law school. The author did not desire to drown the student in a maze of conflicting opinions and theories, but intended, rather, to give him a guide by way of a leading case to which he added citations, references to law reviews and to other material relevant to the topic in hand which should be signposts pointing the way to further investigation. Such a manner of presentation could not help but produce a casebook of high quality well suited for class use.

Richard A. Moliue.

A GUIDE TO FEDERAL APPELLATE PROCEDURE. By Nathan April. New York: Prentice-Hall, Inc. 1936.

The inexperienced or occasional practitioner at the federal bar is often at a loss as to the proper method of getting his cause properly before the court for determination. The author of this Manual has recognized the problem and has turned out a volume which simplifies the diverse principles and rules of procedure to a point where they are more understandable. The book does not purport to be a treatise on the subject, nor are the citations as exhaustive as might be expected—rather it appears as merely a guide designed for every-day use in the federal appellate courts. As such, it is to be commended. It is the first and only available work devoted solely to federal appellate practice and will undoubtedly merit a convenient place in many legal libraries.

The book is arranged so as to illustrate the rules of procedure as they arise in their chronological order during the course of a case. The text starts with the preliminary stay of execution, and a study of what judgments and orders are reviewable along with a discussion of the various courts in which review may be had. Chapter III takes up the matter of time in which to apply for review and the manner of perfecting proceedings for such review. This is followed by a discussion of supercedeas of stay pending appeal and how to frame the record on appeal. The text explains how records on appeal are printed, the rules governing the printing of the record, and valuable suggestions for saving the cost of re-printing. Briefs and arguments are given some attention although it is regrettable that the size of the volume would not permit of a more comprehensive treatment of the topic.

The Guide contains almost one hundred forms which were taken from those actually used and ergo of proven validity. The rules of the ten circuit courts of appeal are contained in the latter portion of the volume.

Following out his original purpose to the end, namely, the preparation of a guide to federal appellate procedure and not a treatise of the law on the subject, the author gives only sufficient citations to operate as "leads" to the legal point discussed. The few citations investigated at random indicate that they are accurate and well-chosen. The index is workable.

As a handbook for counsel about to engage in a federal appeal, the work may be truthfully recommended as an up-to-date guide that will be of considerable service in leading the practitioner through the labyrinthian procedural halls of federal appellate practice.

John J. Locher, Jr.

RESTATEMENT OF THE LAW OF TRUSTS. Two Volumes. St. Paul: The American Law Institute. 1935.

In offering to the members of the legal profession the Restatement of the Law of Trusts, the American Law Institute is distributing the eighth and ninth volumes of a series designed to codify the law as it exists today and to clarify the legal principles of the common law, lest those numerous recent decisions which are in conflict with such principles as taken together with present day conditions distort and obscure them, mayhap causing their abandonment. Such is the expressed object of those in charge of compiling these restatements, and theirs is indeed a worthy task. Any attempt to criticize the achievements of such far-seeing individuals would merely betray the shallowness of the reviewer's intellect, a revelation which invariably follows a joust with windmills. When one takes into consideration the purpose of the Restatement, the caliber of those actively engaged in making and their manner of preparing the compilations, and then examines the finished product, he can have nothing but praise for the forthcoming edition.

Regarding the object of the Restatement, mention has already been made. With respect to those men who conceived this purpose, much could be and should be said; but, however, because of limited space and because of deficiency in the power of expression, that task must await a better hand. In passing it may be said that the list of the officers and those composing the Council of the American Law Institute equals in rank the roster of any group engaged in work of any sort. Appearing upon the list are the names of Root and Wickersham, Pepper and Lewis, Cardozo and Hand, Roberts and Parkinson. Upon such men as these devolved the task of preparing the Restatement of the Law of Trusts. They chose Mr. Austin M. Scott, a member of the faculty of Harvard Law School for a quarter of a century, as Reporter. As advisers to Mr. Scott, the Committee selected such men as George G. Bogert, Elliott E. Cheatham, Warren A. Seavey, Harrison Tweed, and George P. Costigan, Jr. Such are the names of a few of those who helped make a restatement a reality.

And now, a word about the Restatement itself. For the benefit of those who are unfamiliar with the work of the Institute, it should be said that a restatement differs from any other kind of book ordinarily used by lawyers and law students. It is distinctive in that it contains no references to cases. The principles contained in this treatise are presented in concise paragraphs in heavy black type. Following such paragraphs are to be found explanations, comments, and illustrations concerning the points so laid down. Contained in these two volumes are approximately 1500 pages of material, and on these is to be found a complete, succinct, and clear presentation of the general law of trusts as it exists in the United States at the present time. The first volume, after dealing with definitions and distinctions, contains the restatement of the law on those subdivisions of this branch of the law beginning with the creation of a trust up to and including an extensive chapter on the administration of the trust. The second volume begins with a chapter on liabilities to third persons, this being the eighth chapter in the set, and ends with a chapter on resulting trusts.

Every possible phase of the Law of Trusts is covered by this Restatement, and in perhaps no other place may the law be found so easily as here. It is certain that so compact a statement of the law cannot be found elsewhere. These two volumes are indeed valuable and no lawyer should be without them; they are, moreover, decidedly helpful to the student and should be frequently used by him. It is true, of course, that, since a restatement attempts to present only the general law of the United States, one could not determine the law in his own jurisdiction by reference to it. This defect, through the help of state bar associations and members of local law school faculties, is being removed. To this end are being prepared annotations of the laws of each state the purpose of which will be to indicate any conflict existing between the general law as exemplified by the Restatement and the local law as shown by state decisions and statutes. Armed with the restatement and the annotations, a lawyer may have a handy statement of the Law of Trusts at his finger tips, and by reason of such should be able to locate quickly the answer to any question arising in connection with this subject.

The result achieved in the preparation and publication of the Restatements is undoubtedly the greatest forward step that has been taken in behalf of the legal profession in many years. Those who have made such a thing possible are far ahead of their time and deserve the thanks of all lawyers. To admit the law's uncertainty requires a great deal of courage, but to attempt to remedy such condition calls for the highest kind of fortitude. The future will show just how great a service the restatements will render, and it is to be hoped that restatements of other branches of the law will shortly be forthcoming.

Richard A. Moliqne.