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Book Reviews

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as important and determining that fact that there has been no demand by the plaintiff that the logs be returned to him, nor consequently no refusal by the defendant. The dissent denies any dominion by the defendant over the property inconsistent with the plaintiff's ownership. The writer objects to this contention.

In this case the plaintiff had an option of two remedies; he could either have sued Newman who converted the logs, though under mistake, by sale; or he could have sued the defendant, the innocent vendee under the sale, who is in possession of the logs to recover them back or their equivalent in damages. In the first instance there is an actual conversion by exercising a dominion contrary to the rightful owner's interest, *viz.*, the sale of the logs to the defendant. The law is quite universally settled in cases of this type that there need be no demand on the part of the rightful owner and refusal by the converter. *Kyle v. Gray*, 11 Ala. 233 (1847); *Branch v. Planters' Loan and Savings Bank*, 75 Ga. 342 (1885); *Levi v. Booth*, 58 Md. 305 (1882); *Lafayette County Bank v. Metcalf*, 40 Mo. App. 494 (1890). The plaintiff, however, elected to sue the defendant, who it appears is guilty of no actual conversion, as purchasing as an innocent vendee does not constitute an *actual* conversion. In such a case demand and refusal would be necessary to make out a case by furnishing evidence of the conversion, which, if not rebutted, would be sustained as a *prima facie* case. *Courtis v. Cane*, 32 Vt. 232 (1859). But there is the question whether the defendant, though not an actual converter before the suit, becomes one at the trial of it, because, by his failure to tender the return of the logs, he is denying the ownership of the plaintiff and exercising a dominion contrary to the plaintiff's right. It appears to the writer that this query can be answered only in the affirmative, that by failing to tender, the defendants have put in issue the ownership of the logs, and in this way have transformed themselves into actual converters to whom no demand is necessary. *Kerwood v. Ayres*, 59 Kan. 343 (1898); *Eldred v. The Oconto Company*, 33 Wis. 133 (1873).

Maurice W. Lee.

BOOK REVIEWS

HANDBOOK OF CRIMINAL LAW. By Justin Miller. St. Paul: West Publishing Company. 1934.

This text book presents a unified and simplified treatise of the vast field of criminal law. It is one of the widely used and popular hornbook series, which is adapted to quick research or deeper study as the situation requires. The bold type gives a concise statement of the general legal principles in each given situation, while the supplementary and more detailed material that follows each of these general statements goes into each phase of the subject in detail.

The citations that relate to the principles enunciated in this book are diversified enough to give the student from any particular jurisdiction ready access to authority upon the point he may be particularly interested in. The work shows that Dean Miller has conducted an exhaustive research in his quest for not only court decisions on the topic, but also for references to prominent law reviews which have seen fit to consider in detail certain outstanding cases and topics.

Beginning with a discussion of the scope of criminal law and the nature of crime, the author then leads the reader into a consideration of the sources of criminal law—the common law, and the adoption of that law by the states and the statutory changes therein, both of which have for their source the reason and conscience of man. Next the writer considers the subject of intent, and this phase of the subject with its ramifications is dealt with in an interesting and helpful

manner. The treatment of the topic of persons capable of committing a crime, and the corresponding topic of facts that will exempt one from responsibility or justify his actions is one of the best sections of the book, for a comprehensive consideration of individual situations is the key word.

The one disappointment in this book is the meagerness of detail that is given to the individual offenses. While it is true that offenses against property are treated in some detail, this is not true of the treatment of offenses against the person. For instance, such crimes as False Imprisonment, Kidnaping and Abduction are treated somewhat lightly. The salient crimes of the day seem to be along this line, and it is believed that a more inclusive account of the details of such topics would go far in establishing a better understanding of the constituent elements, right of action, and punishment for such offenses. Of course, it is admitted that the field of criminal law is a wide one and that to go into too great detail would defeat the purpose of this type of a book. If detail is desired the citations, and the exhaustive field of research in the modern legal libraries can be looked to; but it is with a tinge of regret that we find that the book under consideration does not give a bit more information upon these topics.

All in all this book is a good one, and the price of five dollars is not too much for a law student to part with in order to secure the information contained within the well indexed covers of this volume.

Donald F. Wise.

INDIANA LAW. FUTURE INTERESTS—WILLS—DESCENT. By Bernard C. Gavit. The Principa Press, Inc. Bloomington, Indiana. 1934. Pp. xli, 461.

Possibly no field of real property law offers the student and the profession generally more anxious moments than the Law of Future Estates; hence any work on this most trying subject, that will pierce the haze and make for a better and clearer understanding of the subject, will not only be welcomed by the profession but will constitute a real contribution to our legal literature. Professor Gavit's book should appeal especially to the Indiana Bar since it deals wholly with the statute Law of Indiana which, according to the author, has no exact counterpart and consequently demands an exhaustive and adequate treatment. The content of this work follows Professor Richard R. Powell's case book on the law of Future Interests, a point worthy of note from the student viewpoint, since it will act as *vade mecum* to be used in conjunction with the casebook.

The work is divided into three parts and contains three appendices. Part one deals with future estates in Indiana. Part two treats of the Indiana Law of Descent while part three takes up Indiana Law of Wills.

Appendix A. cites verbatim the Indiana and New York statutes on future estates. (New York Statutes on Future Interests, Revision of 1830) (Indiana Statutes on Future Interests as adopted in 1843 and 1852.)

Appendix B. cites in briefed form, the New York cases on Future Gifts to Charity prior to 1893. Appendix C. performs the same service for Indiana.

The three hundred and eighty-eight pages are copiously annotated with footnote citations to cases, statutes, legal periodicals, and the outstanding authors on the subjects treated. All statutory citations are to the new Indiana statute, with parallel references to the previous edition of the statute.

Nothing has been left undone (considering the extent of the work) to smooth out the rough and thorny path of the searcher, and like all books devoted to local practice should receive a warm welcome.

John H. A. Whitman.

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