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Cases on Law of Mortgages (1st Ed.) (Book Review)

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many principles that are of modern development. In his latest book, Professor Cook presents a selection of cases that is intended for use in schools where the limitations of curriculum or time, do not permit the teaching of Equity throughout the entire course. Nevertheless, he has not sacrificed the important equitable titles and remedies in the accomplishment of his purpose. There are over three hundred cases reported at length and reference is made in the notes to more than that number. The notes are particularly complete and in many instances embody an excellent elaboration of the principles discussed in the principal case. His selection of cases from the decisions of the New York courts calls for something more than a casual reference from anyone who is at all familiar with the leading New York cases on equitable jurisprudence. In this instance he covers practically all the cases of note in their respective fields. There are included several cases, e.g., *Ryon v. Wannamaker*, which contain the last expression of the Court of Appeals on the particular subject under discussion. The entire work has the air of setting forth the law as it has been developed to the present time and the author does not scorn to use cases of recent decision.

GEORGE R. HOLAHAN, JR.

CASES ON LAW OF MORTGAGES. First Edition. By Lewis Parks. West Publishing Company. 1926. pp. 587.

The recent publication of Professor Parks' Cases on the "Law of Mortgages" comes as a welcome addition to the American Case Book Series, published by the West Publishing Company. The Commercial importance of mortgages is probably greater now, than it ever has been and the accompanying legal importance of the subject of mortgages necessarily follows.

Like the editor of a Digest, the compiler of a case book is confronted with the difficulty of placing cases under the proper legal heading. Professor Parks seems to have given much thought to this problem, with the result that the cases selected are found to be unusually well classified.

The cases included are 211 in number, of which 6 have been decided since 1920 and 17 between 1911 and 1920, inclusive. Although it cannot be assumed that recent law is the best law and that the late cases are the better considered cases, yet where the compiler's object is not fundamentally historical, it would seem that later cases should be given preference to older decisions, covering identical problems. For instance, the case of *Metzger v. Nova Realty Co.*, 214 N. Y. 26, decided in 1915, might well have been included either as a reported case or in the notes as being a more recent expression of the court on the question of the extension of time of payment of bond and mortgage by agreement between assignee thereof and the grantee of the mortgaged premises.

The notes found in the case book are most helpful in stimulating class discussion and encouraging individual research work. In no manner do they fall into the error of extracting principles and rules of law from the cases reported and relieving the students from the reading of the cases. Equally attractive are the references to the discussions in the various Law Reviews.

The order in which topics of a given subject shall be taught will always remain a mooted question as long as individuality forms, as it should, an

important factor in the teaching of a subject. The book under review treats the question of priorities, first in Chapter Five, which chapter is entitled "General Particulars Governing Priorities" and later in Chapter Eight, which is entitled, "Transfer of Mortgagee's Interest." Although some prefer the complete exhaustion of a topic before proceeding to another, there are, no doubt, many subjects, such as mortgages where strict logic must bow to pedagogic common sense, and the order of presentation be that which our experience has taught us to be more conducive to the understanding of the subject by the student.

It is also noted that the appendix contains a draft of the Uniform Mortgage Act. The National Conference Commissioners, on Uniform State Laws, have, for some time in the interest of commercial enterprise, been advocating such an act. The 1926 conference has placed the consideration of this act on its calendar and it is possible that some definite action will be taken in 1927. Students of the law should be interested not only in what the law is, but in all contemplated changes and reforms, be they progressive or otherwise, and the inclusion of the text of the proposed act in Professor Parks' book is a step forward in legal education.

E. J. O'TOOLE.

A Brief Text with Leading and Illustrated Cases by Charles W. Gerstenberg, New York, Prentice Hall Inc., 1926, pp. XV, 562.

Avowedly for the purpose of giving a short course in constitutional law, this volume evidently interprets the words "short course" to mean teaching a little about a great many parts of the subject rather than teaching intensively about a few parts of the subject. Presented with a dilemma of giving the course in constitutional law in a short period, the writer would think that it would seem more advantageous to the student to delve deeply into part of the subject rather than to touch lightly upon nearly every phase of the Constitution. The book is divided into two parts, one of which purports to give a discussion of the Constitution in 126 pages. The balance of the book is taken up with leading cases. In the first part of the book the author treats many branches of the subject. Merely listing them would indicate that his treatment must necessarily be inadequate. Almost any one of the subdivisions could hardly be given adequate treatment in the small space allotted for all of them. As a consequence of this brief treatment, the impression that the student gains is that constitutional law consists more or less of a series of rules contained either in the Constitution or in the precedents established by the decisions of the Supreme Court. Nothing, it seems to the writer, can be more erroneous and no approach to constitutional law more barren of results. If anything, one must recognize that in this branch of the law more than in any other, we are dealing with flexible standards and broad policies, the application of which varies with changing states of facts. One is reminded of the exclamation reported to have been made by the late John Chipman Gray, who for many years had been teaching real property, a subject eminently characterized by its rigid rules. It appears that having attempted to teach constitutional law for a short time, he finally threw up his hands with the exclamation: "This is not law, this is politics." This was eminently characteristic of a real property professor to whom law must necessarily appear to be a series of well defined rules. Perhaps the best place to illustrate the