

Cases on Mortgages of Real Property (Second Edition)(Book Review)

John P. Maloney

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January 10th, 1941, amended Article 27 of the Regulation, virtually making it questionable whether a taxpayer could make a gift of insurance after the above date and thus succeed in eliminating the proceeds at death from the gross estate. It would seem also that the effect of this Treasury decision, even where the gift of insurance was made prior to this date, is to include some portion of the insurance proceeds in the taxable estate at death. This still leaves the situation with respect to insurance in considerable doubt and students should therefore be familiar with the above Treasury decision in order to complete the analysis that the author makes on the subject of insurance.

The chapter on Income Taxes is also effectively organized. The vital question, "What is income?" is considered by the author first from the point of view of taxability as affected by the source of income and, second, from the point of view of taxability as affected by the form of the income. The author's own introduction to the subject of income taxes, including a reproduction of a tax return, is quite helpful and the insertion of a lengthy note reproduced from a law review article on the important problem of income derived from the discharge of an obligation at less than face value will give students a real understanding of the present scope of income taxation.

This reviewer is impressed by the thoroughness of the case material offered for study in the course on taxation. In spite of the 1228 pages of cases adequately annotated, it seems that there might have been included a chapter treating specifically the franchise tax on corporations, particularly the problem of allocations and segregation. Several cases are given in different sections of the book but the subject as a whole merits as much attention as the property tax which is surely not as important today as the franchise tax. There is no doubt, however, that the author is offering an excellent case book on the law of taxation.

BENJAMIN HARROW.*

CASES ON MORTGAGES OF REAL PROPERTY. Second Edition. By Morton C. Campbell.¹ St. Paul: West Publishing Co., pp. xxii, 794.

This book is considerably larger than the first edition.² More and later cases dealing with mortgages of income and the methods of seizure through receiverships, future advances and fixtures are especially noticeable among the new case material. Also the hypothetical problem cases, which distinguished the first edition, have been increased, and citations of cases from which the problems were taken have been added. But the most striking change is in the enlarged and revised footnotes. By excerpts and references to pertinent law review articles, and other legal literature the student has been directed to a vast amount of valuable reading in a very effective manner. The additions not only

* Professor of Law, St. John's University School of Law.

¹ Professor of Law, Harvard Law School.

² MORTON C. CAMPBELL, CASES ON MORTGAGES OF REAL PROPERTY (published by the author; Langdell Hall, 1925).

serve to bring the book up to date but demonstrate that the real property mortgage still presents many novel and important problems especially in times of financial stress.

The weakness of mortgage security and the sharp conflicts of interests in seeking the collection of an oft-times vanishing debt have become only too apparent to the investing public. Also the hope that the highly problematical and complex nature of the mortgage as part of the credit transaction might be simplified has disappeared under an avalanche of decisions during the last decade. These considerations alone prove the wisdom of the author in limiting the scope of his book to the law of the real property mortgage. This observation is made because of the practice in some quarters to include the law of real property mortgages in courses theoretically having a broader base and under rather vague titles such as Credit Transactions or just plain Security. Presumably the underlying idea which justifies the inclusion of pledges, trust receipts, letters of credit, chattel mortgages, conditional sales, suretyship and real property mortgages in a single course is a continuity of knowledge concept. It may be that legal training in subjects more or less related and integrated in this way is superior. However, if for no other than the reasons stated, the new materials in the book under review justify a separate course in real property mortgage law wherever curriculum requirements will permit. Indeed, the question may possibly be determined as one of curriculum rather than teaching. And one might properly add that in this book the section on "Controversies Between Mortgagees of Realty and Mortgagees, Lessors or Conditional Vendors of Affixed Chattels" contains ample material for study of the real and personal property relations involved, at least in real property security transactions.³ The classic theory that case books should be used as instruments to train law students to think rather than to furnish information was applied in the Langdell-Ames era by excluding text material and including instead the printing of carefully selected cases with a multitude of citations as footnotes. This book has evidently been prepared in that tradition. Cases and the provocative hypothetical problems predominate. Even the extensive footnotes probably are intended to help in problem solution for they are not textual. But, on the other hand, they do contain a great deal of "information". This is more in accord with the practice found in the later case books of inserting text notes and other secondary material. That the subject matter of mortgages is not easy to comprehend even for third year students most teachers will admit. Accordingly introductory text matter, I believe, is not out of place. But that controversial point must be settled by the author.

The carefully selected list of law review articles set forth in the preliminary index will furnish any student plenty of relevant reading material. The book may be found difficult but it is educationally sound and a work of fine scholarship. Teachers will find it valuable and interesting.

JOHN P. MALONEY.*

³ Pp. 161-168.

* Vice-Dean and Professor of Law, St. John's University School of Law.