

Cases on Domestic Relations (Book Note)

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has apparently outgrown its usefulness. Whether the doctrine has ever been of any great value in preserving the *status quo* of the states in the federal system is doubtful, although it is certain that Chief Justice Marshall did not intend that it should be used to extend immunity from all national revenue laws to state and local agencies. Professor Charles J. Bullock has asserted that 'when Chief Justice Marshall said that the power of taxation involved the power to destroy he forged a thunderbolt and hurled it at a mosquito. If taxes are levied for revenue, (such a doctrine) is absolutely false. Taxes levied for revenue cannot be levied for more than one year, or a few years, on a basis that destroys. Governments have got to let taxable ability and taxable business and the objects of taxation live. It is the power to levy a discriminating tax that destroys, and it was that kind of tax Chief Justice Marshall had before him. * * *'

"* * * It is again emphasized, therefore, that the Supreme Court should lay aside the rule of *stare decisis* and reconsider the whole question of tax-immunity of governmental agencies, both state and federal. * * *"¹⁴

B. H.

CASES ON DOMESTIC RELATIONS. By Frederick L. Kane. St. Paul: West Publishing Co., 1936, pp. x, 572.

The author, long a distinguished member of Fordham University's School of Law, has produced a casebook, which for many years will undoubtedly remain a standard work on the subject of Domestic Relations. This branch of the law has been changed so radically in the past few years by statutes, and the judicial decisions of the various states have been in such utter conflict, that we cannot fail to recognize that Professor Kane has performed an exceedingly difficult task in a most scholarly fashion.

Within the space of less than five hundred pages, he has presented to us in a clear and orderly fashion, the most important decisions in this field, dividing them both as to chronological sequence and the standard subdivisions of the subject.¹ He has, however, "definitely omitted cases on Insane Persons, Aliens, and Master and Servant which formerly were included as part of the law of Domestic Relations," but which the author no longer considers "appropriate". It is difficult for this reviewer to understand why Professor Kane considers these subdivisions inappropriate. On the other hand, he has diverted very little from the traditional division and sequence of the field and has included cases on Dower, Curtesy, the Rights of a Surviving Spouse, Infant's Contracts and Jurisdiction in Divorce. Thus we have lost very little for the sake of brevity. The cases are selected from various jurisdictions such as New York, Massachu-

¹⁴ P. 147.

¹ Marriage and Divorce, Husband and Wife, Parent and Child, with all their various subdivisions.

setts, Connecticut and New Jersey, and tend to construe the fundamental principles of each jurisdiction rather than to point out the technique of prosecution. The provocative notes and comments at the end of each case are particularly interesting and helpful to both student and practitioner. They comprise supplemental cases either for review, comparison or similarity of the main case; the particular sections of the Domestic Relations Law and the Civil Practice Act relating to the principle involved; and last but not least, the latest concept of the principle as understood and set down by the Restatement Committee of the American Law Institute. As a general rule, the author has attempted to emphasize and clarify the New York rulings on each particular principle involved. In his efforts to bring some order out of the confusion which permeates the subject of Domestic Relations, he has made skilled reference to the sections of the Domestic Relations Law designed to cure the common law and the inconsistencies found in numerous rulings.

The student, in particular, will find very helpful the inclusion in this book of the statutes of the Domestic Relations Law and those subdivisions of the Civil Practice Act which relate to this branch of the law, as it will save much valuable time. Teachers will appreciate this book for the cases have all been brought down to date. The reviewer expects this work to be universally received with enthusiasm for it should have general appeal to student, teacher and general practitioner.

A. U. B.

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The initials signed to the booknotes are those of Frederick A. Whitney, Edward J. O'Toole, Benjamin Harrow and Anne U. Berman.