

Cases and Materials on Trusts and Estates (Vol. 2) (Book Review)

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entitled "Remedies for Breach," which contains a number of cases on Damages, Restitution and Specific Performance. The author justifies this departure by saying in his preface: "the subject of 'Damages' has been so neglected and confused that very many law students never study it at all. In somewhat less degree, the same can be said of 'Restitution' and 'Specific Performance.' The cases here included will at least point the way to further study."

A case-book is necessarily doomed to a short life. Law is not static, but constantly developing and changing, not through any inherent uncertainty in law itself, but because since it is a social science it must needs be constantly adjusting and readjusting itself to the changing conditions of business and society. This second edition of Professor Corbin's case-book on Contracts brings the subject down to date and leaves very little to be desired in a modern, scientific presentation of the case-book method of studying law.

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CASES AND MATERIALS ON TRUSTS AND ESTATES. Volume 2. By Richard R. Powell. St. Paul: West Publishing Company, 1933, pp. 1040.

In our review of Volume 1 of this publication,¹ opportunity was taken to discuss the functional approach to the study of law which has been adopted by Professor Powell in the presentation of his subject, and to appraise its efficacy from the viewpoint of preparing future lawyers to cope with the variety of problems which will inevitably be presented to them for solution. It was then argued that problems change, and that their solution cries out for an application of sound fundamental principles, if chaos is not to supplant stability. In the short period, which has elapsed since the writing of the review of Volume 1, we have been engulfed in a veritable tidal wave of change, the force and extent of which will defy accurate measurement in this generation. To successfully ride this wave into more quiet and sheltered waters, it is resubmitted that reliance must be placed implicitly in the chart of fundamental principles in the hope that it will be accurate enough and clear enough to guide our course through the upheavals, concomitant with sudden change. A study of the problems of yesterday yield assistance, only in so far as they reveal the technique manifested in the application of sound principles to the balancing of the social order.

In Volume 2 of *Cases and Materials on Trusts and Estates* the problem method initiated in Volume 1 is continued. For instance, under the heading of "Conservation of Wealth of Disposing Party by Due Consideration of Law as to Income, Gift and Succession Taxation" are discussed such matters as "The Allocation of Liability for Income Taxes" and "Dispositions Subject to State and Federal Taxation." The cases and materials under these groupings

¹ Book Review (1933) 7 ST. JOHN'S L. REV. 379.

do open the door to a technical discussion of the ramifications of inheritance tax laws and the application of the trust concept to specific tax statutes; and they do serve as a warning to the future lawyer that taxation is an element to be considered in the preparation of a trust *inter vivos* or a testamentary trust. However, it would seem that an exhaustive study of taxation *per se* would lead to a clearer understanding by the student of the principles of taxation not only in the field of estates but in the more comprehensive field of law in general. In other words, better results should be obtained, if the general principles in a given field are mastered, and then the synthesis is made with the other field or fields, wherever and whenever it becomes necessary. Such a synthesis should be more accurate and complete by reason of the mastery in the branches of the law which are sought to be integrated.

In Part 6 of the second volume, the author has compiled what unquestionably is an outstanding collection of cases on trust management. This part is entitled, "Some Problems Which Arise in Course of Effectuating the Dispositive Provisions." In it are to be found the leading cases on the custody and protection of the trust *res*; on the duties of trustees as to investments; on the distribution of the trust *corpus* and income; and on such other pertinent topics as the transferability of the beneficiary's interest; the rights of a creditor in the interest of a beneficiary; powers of appointment and extinguishment of trusts. It would seem that the author is at his best here, where he is grouping material in the orthodox category. In fact, the treatment of trust management in this volume should long remain as a model for compilers of cases and materials on the subject.

The completion of this second volume marks the end of a gigantic task. Throughout the entire work, the author has presented the law of trusts and estates in motion; the ends to be accomplished by law have been emphasized and rule after rule has been discussed with a view to determining its adaptability to the end to be sought. Another challenge has been hurled at the old order of law teaching, a challenge accompanied with such skill and learning that it cannot be ignored. It demands the attention and interest of everyone who is seriously concerned about the teaching of the law.

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STEFFEN'S CASES ON AGENCY. By Roscoe T. Steffen. St. Paul: West Publishing Co., 1933, pp. 836.

Professor Steffen has organized cases and other material on the law with special emphasis on matter pertinent to the law of Agency, but this is by no means a compilation of the cases on the law of "Agency" as the term ordinarily is understood. Cases are here included on the subject of negative covenants and trade secrets, fiduciary concepts, management responsibility for losses, the risk of business failures, joint ventures; and there are an additional