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Steffen's Cases on Agency (Book Review)

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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

two hundred pages on partnership and corporation law. The scope and extent of this subject matter made necessary the inclusion of parts of such statutes as the: Bulk Sales Act, Factors Act, Mechanics Lien Law, Uniform Negotiable Instruments Law, Uniform Partnership Act, General Association Law, together with many other excerpts. The material outlined, moreover, is strengthened by reference to about one hundred law review articles on various subjects. This volume thus represents a treatment of commercial law in its broadest sense; it is not a narrow, confined study of the law of Agency. Its use as a case-book might be deprecated from the standpoint that this work of eight hundred pages cannot be covered in a course on "Agency" which, in most law schools, consists of thirty hours of classroom study. Such criticism, however, assumes that a compilation must be of such size that it can be traversed from cover to cover by the end of the course. The satisfaction that comes to the student when he has read the last case in a collection of cases moves the teacher to rely upon a well-rounded book which can be covered during the term as an instrument for the imparting of information. It is a relief to feel that with this volume the cases which cannot be covered in classroom discussion are available as outside reading, within the reach of the students without their rushing to the library to get the official reports.

An objection that this work is too broad in its treatment of subjects that at best are only related to the law of "Agency," is not sound either from the standpoint of the teaching process, or the nature of the law. It is surely a commonplace to say that law does not consist of independent subjects, each to be treated as a separate unit which ultimately are soldered together as "the law." Law subjects are interrelated, even in their objective sense; and, therefore, we only in measure separate subjects in order to allow for a more rapid mastery of the study.

In the teaching of law, as in every other study, human beings yearn for conclusions tangible and certain. They are endowed with five senses, and uncertainty to them is tantamount to an enforced realization that reasoning is insufficient to comprehend the state of things. The desire on the part of students to identify themselves with certainty encourages them in the belief that somewhere there is to be found the exact statement of the law. To talk about the law, to balance and to weigh contending ideas, to them is highly impractical.

The persistence of that desire unfortunately has even affected the American Law Institute in its restatement of the law. It speaks of definite, ascertained rules of law, but its absoluteness of statement has caused it to bring about a situation where many teachers of the law, who at first had confidence in their proposed codification, have since found it necessary to regard that work as an unfortunate digest of decisions. The blow which the Court of Appeals of New York has given to the work on the restatement of the law in *Langel* v. *Betz*[1] and in *Cullings* v. *Goetz*,[2] will, in the opinion of this reviewer, ultimately be found to sound its death knell, not because the Court of Appeals on two occasions repudiated the views expressed in the restatement of the law, but because

[1] 250 N. Y. 159, 164 N. E. 890 (1928).
[2] 256 N. Y. 287, 176 N. E. 397 (1931).

those who were charged with that work sought to declare rules of law as though they existed as absolute truths to which judges must yield.

It is, in fact, the opinion of this reviewer that we would do well to turn away in classroom work from dogmatic statement and, instead, carry on a study of the various law subjects in their interrelation with others, proceeding by means of a comparative study of decision law enlarged by variant views to be found in learned treatises.

The richest results that will come to the law student are a proper perspective of just such an interrelation and a realization that the same uncertainty which possesses him as a student, confronts the practicing lawyer in a substantial part of his litigated causes: The courts may choose one of two solutions, and whether it is to be the one or the other, will not be known until a court of last resort has spoken, and then ofttimes by divided vote.

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TRIBUNES OF THE PEOPLE. By Raymond Moley. New Haven: Yale University Press, 1932, pp. vii, 272. $2.50.

An expert and pioneer in the scientific study of administration of criminal justice has given us in this volume a realistic and critical analysis of the New York Magistrates' Courts. To most persons, the author is better known as the one-time head of President Roosevelt's "Brain Trust," and as editor of the new weekly, *Today*.

The sub-title of the volume is, "The Past and Future of the New York Magistrates' Courts." It is the product primarily of a study of the Magistrates' Courts undertaken in 1930 at the request of Judge Samuel Seabury, who was then engaged in an investigation of these courts.

It is a volume well worth reading—it is indispensable to students of municipal administration and administration of criminal justice. One thing becomes clear as crystal: the level of administration of justice in the Magistrates' Courts is no higher—and no lower—than the level of the administration of our municipal affairs. If we would purify our municipal courts, we must purify our municipal politics. Judge Seabury and his expert, Professor Raymond Moley, have set the goal. They are not always in accord as to the direction to be followed.

The author discusses the appointment by Governor Hughes in 1908 of the Page Commission to study conditions in the inferior criminal courts, the Commission Report of 1910, and the Act Relating to the Inferior Criminal Courts of the City of New York, passed several months later. This act was the most important contribution of the Page Commission. But it proved not to have gone to the roots of the problem. Judge Seabury appraised its work as follows:

> "The reason why we are no better off today under the Inferior Criminal Courts Act than we were prior to its enactment is that the