

Cases on Personal Property (Book Review)

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CASES ON PERSONAL PROPERTY. By Harry A. Bigelow, assisted by Francis W. Jacob. St. Paul: West Publishing Co., 1931, pp. xiii, 465.

The first edition of this well known casebook was published in 1917. Between 20 and 25 cases there reprinted have been omitted from this second edition and from 55 to 60 new cases have been added. Over half of these new cases have been decided since the publication of the first edition; forty to forty-five per cent being cases of an earlier date. The first edition consisted of six chapters with the following titles: I. Distinction Between Real and Personal Property; II. Rights of Action Based on Possession or on Ownership; III. Possessory Interests in Chattels; IV. Acquisition of Ownership; V. Fixtures; VI. Emblements. The first chapter which consisted of two and one-half pages of extracts from Williams on Personal Property has been retained without change in the second edition. The fifth and sixth chapters have also been retained without change, except for the addition of about a half dozen new cases, and constitute chapters 8 and 9 in the new edition. Aside from the addition of some new cases, the only change in the chapter on Acquisition of Ownership (chapter 7 in the new edition) is the substitution of a short section, comprised of four early cases, on "Bona Fide Purchase" in place of the section in the first edition entitled "Mere Taking of Possession."

The bulk of the changes in the second edition appear in the remaining chapters; and here there has been substantial revision in analysis and arrangement. In place of Chapters II and III of the old edition we find five chapters titled as follows: 2. Possession; 3. Bailment; 4. Finder; 5. Lien; 6. Pledge. But the change is not as great as it might appear from this statement. The chapters on Lien and Pledge, substantially in their present form (the variations being in the addition of some new cases), were separate sections in Chapter III of the old edition. The chapter on Finder, which is here divided into three sections,¹ was practically in its entirety, the remaining section in the old Chapter III. Excepting the new cases added, the first two sections² of the new Chapter II (Possession), comprise section 1 (Mere Taking of Possession) in the old Chapter IV (Acquisition of Ownership); while the remaining section³ in the new Chapter II and the fourth section⁴ of Chapter III (Bailment) comprise the old Chapter II (Rights of Action Based on Possession or Ownership). The only new subject matter in this part of the book is in the first three sections on Bailment, namely: 1. Elements of a Bailment; 2. Bailment Distinguished from Other Transactions; 3. Nature of a Bailee's Responsibility.

The editorial work is of a kind with that in the first edition. Substantial parts of almost every case are omitted and frequently so much is omitted as to make the remainder difficult to understand and leave the factual situation very much in doubt. The emphasis seems to be on the generalizations, "rules" and "principles" stated in the opinions. Almost three-fourths of the cases

¹ 1. Rights of the Finder as Against the Owner of the Locus in Quo; 2. Rights of the Finder Against Later Possessors; 3. Rights and Duties of the Finder in Relation to the Owner of the Chattel.

² 1. Physical Control; 2. Intent.

³ Rights of Action Based on Possession.

⁴ Rights of Action Based on Bailment.

antedate 1900. While the footnotes have been enriched in places with citations to more recent cases, there is still a complete lack of reference to periodical literature.

It would perhaps be wise to end the review with this report on the nature of the revisions. But it is difficult to refrain from comment. The casebook is as distinctly out of touch with recent trends in legal education as is the course which it is designed to serve. Both are framed around several abstract concepts and treat with a miscellaneous collection of parts of dissimilar problems arising from a wide variety of human activity. The cases seem to be arranged with a view to showing first the "elements" of the concepts and then their operation in various controversies. But the concepts have little meaning apart from the controversies and are fashioned as much by the cases in the later sections as by those in the sections purporting to define the "elements." In this respect, the new edition offends more than the old. In the latter, there was no attempt to collect cases on the "elements of a bailment," or the "physical control" and "intent" "elements" of possession, or on the distinctions between a bailment and "other transactions." In the second edition, these attempts have been made, with the consequence that at times related cases are scattered in different chapters and sections and have to be studied apart from the whole situations which give rise to them, unless the teacher can find time to re-edit the volume. At other times the student is given only a partial and erroneous impression about problems which are not followed up at all. The new edition might be justified by the inclusion of the more recent cases. In analysis and plan, however, in so far as it departs from the first edition, it conforms more closely to the 1915 edition of Warren's Cases on Property. Perhaps this indicates that the second edition is even more old-fashioned than the first.

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ESTATE ACCOUNTING AND TAXATION. By Emmanuel Sachs and Walter A. Levy.
New York, N. Y.: Burrell Snow, Inc., 1931, pp. 267.

Attorneys have a justifiable grievance against extraneous agencies that in the past decade have been quietly but surely gobbling up their most profitable business. In the main the attorney has been powerless to withstand this steady inroad made on his business, whether by collection agencies, credit organizations, corporations that handle matters of new incorporations and corporate reorganizations, accountants, or finally by the insinuating work of banks and trust companies. The latter have succeeded amazingly in increasing their own estate and trust business at the expense of the lawyer, and of late they have entered even the field of bankruptcy practice. It is left to the legal organizations protecting the interests of attorneys to determine why these agencies, more especially the banks, should be permitted virtually to practice law. At the same time it is desirable that attorneys should be aware of their own responsibility in bringing about this unhappy situation.