

Handbook of the Law of Suretyship and Guaranty (Book Review)

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error common to laymen, Professor Burt cites but one case usually to support a proposition without regard to the fact that it might be a minority jurisdiction or an exception to the accepted rule. A summation based upon a study of all available cases would have been far more scholarly. The inclusion of a case index and bibliography would also have been helpful to the student of legal psychology.

It is interesting to note that the author advocates the modern trend of criminology in studying the individual rather than the criminal type.³ Also interesting, is the striking similarity of the first three divisions of this book with Chapters VIII, IX and XVI of Mr. McCarthy's treatise,⁴ entitled, respectively, "What We See and Remember," "Lie Detection," and "Types of Criminals." The latter volume is far more beneficial to the lawyer in both content and method of approach.

On the whole, the book is interesting, instructive and valuable. It would not meet the exacting requirements of an expert psychologist, nor the scientific standards of an academic student. However, it will serve its purpose as a primer to the legal profession in encouraging the consideration of factors not regarded as falling conventionally within the purview of legal practice.

WILLIAM H. SHAPIRO.

Brooklyn, N. Y.

HANDBOOK OF THE LAW OF SURETYSHIP AND GUARANTY. By Herschel W. Arant. St. Paul: West Publishing Company, 1931, pp. xii, 471.

Dean Arant's contribution to the law of Suretyship and Guaranty in the form of a case book which appeared in print last year has been augmented by the addition of a formidable treatise, involving, as it does, a consideration of surety and guaranty contracts and correlated matters basically concerned with the rules of contracts but with varied and special rules peculiar to this phase of jurisprudence. The title suggests the purpose of the work—a Handbook—designed to afford the keen pursuer of principles with a thumb index to case analysis. Not that the author has not devoted time and space to the pro and con reaction to decided cases and to principles enunciated therein, but that, in the nature of things, a treatise of limited pages must of necessity spare the social and economic aspects of the various relationships and their consequences. One must go a long way to add to Professor Williston's consideration of this branch of the law of contracts, yet Dean Arant has contributed a valuable collection of authoritative cases for student and practitioner alike, being mindful also, of the increasing importance attached to the searching analysis afforded the law by eminent contributors to legal periodicals. Combined, they reflect

³P. 258: "Progress in the field of criminology is dependent largely upon the soundness of the methods employed in the study of the individual delinquent." POZNISHEV, KRIMINALNAIA PSYCHOLOGIA, PRESTOUPNIE TIPI (1926) p. 8.

⁴D. G. McCARTY, PSYCHOLOGY FOR THE LAWYER (1929).

the phenomenon of change from the accommodating party to the giant corporate surety organized for profit.¹

The subject of the Statute of Frauds is set forth in simple but effective fashion. Most all jurisdictions have adopted a uniform interpretation of the word "void" as incorporated in their respective "required to be in writing" statutes. Earlier cases such as *Dung v. Palmer*,² which held that the word "void" was to be interpreted literally to mean void *ab initio* are now considered judicial misstatements, or as "bad apples"³ to be segregated from the mass and disposed of.

The inclusion of standard forms of bonds and other undertakings incorporated in the Appendix should prove to be a helpful aid to the neophyte if for no other reason than to analyze their content for mode of expression and for the interpretation of individual clauses.

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THE ABOLITION OF POVERTY. By Harrison E. Fryberger. New York: Advance Publishing Co., 1931, pp. 152.

Many writers, including Hammurabi, Malthus, Voltaire, and Henry James, have attempted to convince the public that at last the panacea for economic evils had been discovered. Mr. Fryberger attempts to convincingly support his contentions by voluminous excerpts from sources as widely divergent as the *World Almanac*, *Bulletin 89*, *Bureau of Mines*, and the "Quadragesimo Anno" Encyclical of Pope Pius XI. Perhaps this is due to his legal training in preparing briefs, and then again perhaps it is an attempt to make his book imposing

¹ The reaction to the compensated surety has been expressed in terse language in an extract from the opinion of Cox, *J.*, in *United States Fidelity and Guaranty Co. v. Poetker*, 180 Ind. 255 at 263, 102 N. E. 372 at 374 (1913): "It is, of course, to be conceded that a surety company may, in dealing with a private citizen, with a free hand, unhampered by statutory restrictions, make such a contract of suretyship as it chooses, and guard and limit its liability by as many provisions as it pleases, and, if the one for whose benefit it is given accepts it in good faith, the surety is bound only according to the terms of the bond. But even in such a case the rule of *strictissimi juris* which has been invoked for the benefit of private individual sureties who sign for accommodation, and not for compensation, and which requires a strict construction of the contract in their favor, and a resolution of all doubts in their favor, does not apply to the involved contract of a surety company which becomes a surety for profit. In the latter case the rule is reversed and the contract, when there is room for construction, is to be construed most strongly against the surety and in favor of the indemnity which the obligee had reasonable ground to expect." (Italics ours.)

² 52 N. Y. 494 (1873).

³ Merrill, *Contribution Between Sureties and Guarantors* (1932) 2 *IDAHO L. J.* 1, "Reported cases are like apples in a basket. Unsoundness in one tends to infect the whole mass. Hence it is of the utmost importance promptly to cull out those which are faulty. A critique of judicial decisions often proves useful as an aid to this necessary process of elimination."