

Bankruptcy Law and Procedure (Book Review)

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power of Equity to act *in rem* is excellent as is also the treatment of the remedies in certain tort cases, especially waste, trespass and nuisance.

We wish that Professor Walsh had discussed more in detail some of the later cases having to do with injunctions in defamation cases. In a rapidly changing civilization the powers of a court of Equity are frequently invoked to give relief against what might be termed anti-social acts not amounting to crimes, ofttimes trivial, but occasionally important. A recent volume of supplementary cases to Chafee's Cases on Equitable Relief Against Torts contains many such situations.

Professor Walsh does not hesitate to take a stand and, where he finds himself in disagreement with decisions or principles, he is ever ready to point out what he believes to be the correct rule.

The chapters on equitable relief in contract cases are quite complete and very valuable, especially those dealing with the vendor-purchaser relation. On the other hand, the subject of Equitable Assignments is not discussed at all. Also, is it an exact statement of the rule in New York that "a contract in writing is only enforceable against the party who signs it, under the Statute of Frauds, and not enforceable against the other who did not," and, as in the next line, "this has continued to be unbroken law ever since"? The above is found in section 69 under the title "Mutuality in Specific Performance."

It is suggested that the case of 300 West End Avenue v. Warner, 250 N. Y. 221, holds that the vendor's signature is not necessary, provided it can be shown that the purchaser indicated his assent to the transaction.

In Part IV the treatment of fraud in Equity is very helpful, as are also the citations and footnotes. We would like to have had more, however, on the subject of accident. We feel that this could have been properly incorporated in Part IV.

For the practitioner a reading of this book should stimulate him to the possibilities of equitable remedies, and, as for the student, the best test is the apparent result gained from the use of the book. We find that students who seriously study the sections assigned to them in this book benefit greatly thereby, and so we are pleased with the book and feel that Professor Walsh has given us a valuable work.

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BANKRUPTCY LAW AND PROCEDURE. By Joseph G. M. Browne. Brooklyn, N. Y.: Federal Publications, 1930, pp. 273.

Recently investigations relative to the operation of the Bankruptcy Law occupied the front page of our daily newspapers. Efforts were made to ascertain the underlying causes of bankruptcies and to find a method of curtailing the tremendous losses sustained by business men throughout the country. Commenting on the question as to who assumes eventually such burden, one writer

ironically put it, "It's the public that pays." It therefore presented a problem affecting society at large—a matter of public concern.

The reviewer does not find himself in accord with recent criticisms of our Bankruptcy Law. While authorities differ as to causes which lead up to commercial failures, they all agree, however, that the purpose of the Bankruptcy Act is to distribute the debtor's assets on a *pro rata* basis, and to release the debts of the unfortunate but honest bankrupt.

An honest and intelligent enforcement of the provisions of the Bankruptcy Act, through invoking the aid of the machinery of the United States Courts, will find the debtor subject to rigid examination as to his acts, conduct and property, and will require him to account in full for all property and money received by him, and for a failure of which he will find himself liable to criminal prosecution.

The agitation, however, has served its purpose, if for no other reason than that it has aroused the lethargic and passive state of mind of the members of the Bar and students of the law to study the American Bankruptcy Act and the courts' interpretations thereof. Apparently it has also resulted in giving birth to Mr. Browne's work, "Bankruptcy Law and Procedure."

With all the furore created by businessmen and merchants' associations throughout the country in criticism of the Bankruptcy Law, the author must be considered as an intrepid soldier of fortune to devote his talents in giving us, at this time, a treatise on the subject of bankruptcy, with no apparent fear that the agitation will bear any fruit or that Congress will repeal the Law. Personally the reviewer is inclined to believe that the excited thought of the legislators and merchants will, as far as any radical change is concerned, vanish into thin air and prove to be a case of "a mountain laboring and bringing forth a mouse."

This book is divided into three parts: (1) a text on bankruptcy law and procedure, (2) Bankruptcy Act of 1898, amendments thereto, and General Orders in Bankruptcy promulgated by the Supreme Court of the United States, and (3) bankruptcy forms.

This work is intended not only for the student but the active practitioner. As a source to which the student and lawyer may refer for practical help in the solution of the problems that arise in the ordinary bankruptcy matter, this book will prove to be of real service.

While the subject is not treated according to the sections of the Bankruptcy Act, yet all phases of the law are covered, from the filing of a petition in bankruptcy to the discharge of the bankrupt and the final step in the administration of a bankruptcy proceeding.

The student and practitioner will find the Bankruptcy Act, Amendments, General Orders and Forms, of considerable help, as they contain the most recent amendments to the Bankruptcy Act and the General Orders. However, it must be noted that Official Form No. 6 is no longer in use, as General Order VIII, authorizing its use, has been abrogated.

Mr. Browne has given footnotes, references and numerous citations to each chapter and treats the subject in an original manner. The indices are very helpful.

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