

Students' Manual of Bankruptcy Law and Practice (2nd Ed.) (Book Review)

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Recommended Citation

Duberstein, Samuel C. (1926) "Students' Manual of Bankruptcy Law and Practice (2nd Ed.) (Book Review)," *St. John's Law Review*: Vol. 1 : No. 1 , Article 23.

Available at: <https://scholarship.law.stjohns.edu/lawreview/vol1/iss1/23>

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learned author's position is his chapter on The Police Power. In the latter part of this section he in effect criticizes the dissenting opinions in *Hammer v. Dagenheart*, *Lochner v. N. Y.*, *Muller v. Oregon* and kindred cases where the dissenting judges and many law writers have been of the opinion that economic data alone are necessary to test the reasonableness and constitutionality of industrial legislation. In reply to Mr. Frankfurter's dictum that the brief submitted by the present Mr. Justice Brandeis in *Muller v. Oregon*, 208 U. S. 412, was the first to contain authoritative data and that for the first time briefs breathed reality, Mr. Gerstenberg exclaims: " * * * that statistical data of the kind submitted in that brief is so easily susceptible of inexpert handling that it holds within itself the elements and extreme danger as well as of intellectual right." That seems to be a very lawyer like way of straddling the necessity of taking a decided position with regard to the merits of that type of brief. On the other hand, if the implication is that examination of statistical data might lead to extreme danger, this is an argument for the abolition of statistics which is, of course, absurd.

Among the cases there does not seem to be any well organized or useful presentation. Thus in the second section entitled "Separation of Departments of Government," where the writer intends to deal with the general subject of the Separation of Powers, he includes with *Marbury v. Madison*, 1 Cranch, 137, which affected the doctrine of Separation of Powers only by way of dictum and such cases as *Massachusetts v. Mellon*, 262 U. S. 597, where the court refused to pass upon the subject and *Ex Parte Grossman*, 45 Sup. Ct. 332, which really affects the subject only indirectly. One does not see the scheme of the third section entitled "United States and the States" or the purpose of treating the case of *Fauntelroy v. Lum*, 210 U. S. 230, as a separate subject. In the sixth subdivision, entitled the "Judiciary," we again have a case *Pacific Telephone & Telegraph Co. v. Oregon*, 223 N. Y. 118, where the court declined to take jurisdiction of the suit claiming it to be a political question, of the type referred to by Mr. Hughes in a recently published address. At the same time, it is difficult to see what bearing such a case has upon the other cases collected in that section. Perhaps a more happy choice than *Gitlow v. People of the State of New York*, might have been made to illustrate civil rights and surely a case where the dissenting part of the court had expressed itself would not seem inappropriate. On the whole, the cases do not seem to be selected with any consistent theory. There is a notable lack of dissenting opinions, some of which are of the utmost importance for the future development of law and for the proper comprehension of the ratio decidendi. It is helpful of course to have the Constitution printed in full as an Appendix, and of course, the book has the merit of being physically well gotten up, but its major defects pointed out above make it extremely unlikely that it will gather much vogue where constitutional law is attempted to be taught as a part of the law specially adapted for the application of standards and policies of law, to ever changing states of facts.

MAURICE FINKELSTEIN.

STUDENTS' MANUAL OF BANKRUPTCY LAW AND PRACTICE—
Second Edition, by Lee E. Joslyn, Detroit: Matthew Bender & Company, pp. XVIII—354.

The author of this Manual is a Lecturer on Bankruptcy at the Detroit College of Law and also a Referee in Bankruptcy. This volume, a text book

for use in Law Schools, is in its second edition, prompted evidently by the amendments to the Bankruptcy Law enacted by Congress at its last session, and approved by the President.

The text of the present edition has been corrected, in the main, in accordance with the recent amendments. The author has omitted to mention a radical departure from the late Bankruptcy Act, namely, that a voluntary petition in bankruptcy may now be filed without being accompanied by the schedule of assets and liabilities. Today the bankrupt can immediately place his affairs and assets under the jurisdiction of the United States Court even though he has ten days within which he must thereafter file his schedule. (Sec. 7 (a) Subdiv. (8) B.A.)

Students will find this work well adapted for their limited use, for the author reviews the operations and proceedings which may be taken under the Law, in such manner as would enable the pupil to acquire a rather comprehensive view of the purpose, extent and limitations of the Bankruptcy Law.

Though perhaps the arrangement of subjects and topics may not be wholly satisfactory, the chapters on liens and preferences are presented with illustrations which convey a clear interpretation of the sections of the Bankruptcy Act pertaining to these important subjects.

Other valuable features of the book are the Bankruptcy Act of 1898, with the amendments of 1903, 1910 and 1926, the General Orders in bankruptcy promulgated by the Supreme Court, and the official forms in bankruptcy, all of which should be very helpful to the student and useful when he engages in the general practice of law.

SAMUEL C. DUBERSTEIN.