

July 2013

Cases and Materials on Security Transactions (Book Review)

Charles M. Sparacio

Follow this and additional works at: <http://scholarship.law.stjohns.edu/lawreview>

Recommended Citation

Sparacio, Charles M. (2013) "Cases and Materials on Security Transactions (Book Review)," *St. John's Law Review*: Vol. 22: Iss. 2, Article 30.

Available at: <http://scholarship.law.stjohns.edu/lawreview/vol22/iss2/30>

This Book Review is brought to you for free and open access by the Journals at St. John's Law Scholarship Repository. It has been accepted for inclusion in St. John's Law Review by an authorized administrator of St. John's Law Scholarship Repository. For more information, please contact cerjanm@stjohns.edu.

Although, with few exceptions,¹² the book deals primarily with the federal administrative law problems, the principles of law stated are equally applicable to the administrative law problems of the various states. The discussion of the Federal Administrative Procedure Act in those situations where the Act has sought to cope with some of the problems raised, is an excellent feature of the book.

Background of Administrative Law, appearing at a time when a positive need exists for a better understanding of the problems of administrative law and what has sought to be accomplished by the Federal Administrative Procedure Act, is a book that doubtlessly will be welcomed by the student of administrative law and by the general practitioner.

EDWARD D. RE.*

CASES AND MATERIALS ON SECURITY TRANSACTIONS. By John P. Maloney and Harold F. McNiece. New York: St. John's University Press, 1947. Pp. xi, 738, index. \$8.00.

In this book the authors, following the present tendencies in legal education, include materials which traditionally appeared in independent law school courses under the headings Suretyship and Mortgages. The success in recent years of similar volumes, such as *Cases and Materials on the Law of Credit Transactions* by Dean Sturges of Yale and *Cases and Other Materials on Security* by Professor Hanna of Columbia, bears out the soundness of such an approach. While the numerous security transactions cognizable by the law often differ in syntax and legal principle, yet the policy considerations involved are essentially the same. Since it is the effect of the transactions upon basic economic values of the commercial world that is of utmost importance, it would seem desirable to inculcate in the student a knowledge of the essential nature of the security transaction as such, rather than to weigh him down with a multiplicity of varying legal concepts.

The sections of the book devoted to the law of personal security have been edited primarily by Professor McNiece. The plan of organization is first to analyze the fundamental nature of the contract, and then to consider the relationships of rights and duties arising from it. The rights of the surety against the principal, the rights of the creditor, and those of the cosurety are dealt with in detail, as are the defenses of the surety. A section has also been included relating to the obligations of the surety toward third-party beneficiaries. This phase of the law, while yet in a somewhat amorphous state, is

¹² See p. 84, note 71, wherein is stated the holding of *Staten Island Edison Corporation v. Maltbie*, 296 N. Y. 374, 73 N. E. 2d 705 (1947). Another recent New York State decision that perhaps warranted treatment is *New York Post Corp. v. Kelley*, 296 N. Y. 178, 71 N. E. 2d 456 (1947).

* Instructor in Law, St. John's University School of Law.

worthy of particular attention because of its importance in the field of contractor's bond, and it is gratifying to note that a series of excellent cases on the subject have been included. Particularly helpful are the text materials included as an introduction to each topic. By emphasizing the most important matters covered in the cases, the text materials insure a continuity of organization and content which would not otherwise be possible.

The property security sections are essentially a re-editing and modernizing of the materials of Professor Maloney's prior works on the law of mortgages. The cases chosen are particularly excellent in illustrating the historical evolutionary pattern of the law, and the wealth of modern statutory material serves admirably to supplement the historical pattern and place the more recent cases in clear perspective. Numerous problems further serve to focus the student's attention on critical issues. An interesting series of practical suggestions for lawyers engaged in security work has also been included, together with a number of mortgage forms likely to be encountered in practice. This serves to integrate the practical and theoretical aspects, and may well provide a background which will be appreciated by students when they commence the practice of law. Too often the young lawyer finds himself with little or no practical foundation, and it is only through such methods that the difficulty will be overcome.

The reviewer has been employing this volume in several classes and has found it an excellent instrument for portraying the lights and shadows of the complex security transaction. Complete and scholarly, yet straightforward and realistic in approach, it makes an important contribution to the tools of pedagogy.

CHARLES M. SPARACIO.*

TRUST RECEIPTS: THE VARIATIONS IN THEIR LEGAL STATUS. By George B. McGowan. New York: The Ronald Press, 1947. Pp. viii, 165, index. \$4.00.

There has been surprisingly little written on Trust Receipts, considering their importance. As Mr. McGowan says: "Not only does the trust receipt stand behind practically every dollar's worth of bankers' acceptances involving purchases of imported and domestic goods, but also, since 1920, practically the entire wholesale automobile business of the United States has been financed by its use."¹ and "The keen interest in foreign trade which we see all around us at present will inevitably result in a tremendous demand for acceptance financing coupled with trust receipt accommodation."² At another place Mr. McGowan writes: "The trust receipt, when properly employed, fulfills a

* Associate Professor of Law, St. John's University School of Law.

¹ P. 10.

² P. 164.