

August 2013

Cases and Materials on the Law of Trusts (Book Review)

Edward J. O'Toole

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

Recommended Citation

O'Toole, Edward J. (2013) "Cases and Materials on the Law of Trusts (Book Review)," *St. John's Law Review*: Vol. 15: Iss. 2, Article 41.
Available at: <http://scholarship.law.stjohns.edu/lawreview/vol15/iss2/41>

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.

law and equity as much as they do in the first part, although here and there are excellent footnotes.⁷

A few years ago a prediction might have been justified that Equity, as a separate course, was doomed to disappear. Especially after Maitland's dictum and the movement for curricular reform in the law schools of America. Curricula were to be organized "in terms of the human relations dealt with and less, as largely now, in terms of the present legal concepts of the conventionally trained legal mind." Materials (to be prepared) were to be arranged to cover three broad fields, to wit, the law of domestic, business, and political relations. But the possibility of allowance of certain general and cross-section courses, such as property and contracts, was admitted.⁸ The proposals in Mr. Oliphant's article, as cited below,⁹ if fully carried out, would appear to bar equity as a separate course, unless it is treated as a "general and cross-section course." Whatever the approach, "functional" or "historical" in equity, an understanding of its principles, in the words of Holdsworth, "will never be acquired if equity is studied in snippets". The publication of this third edition of the single volume, at this time, seems to indicate that curriculum makers are going to retain equity as a separate course.

J. P. MALONEY.*

CASES AND MATERIALS ON THE LAW OF TRUSTS. By Richard R. Powell. St. Paul: West Publishing Co., 1940, pp. lxxix, 1034.

When the author produced some eight years ago his two-volume work, entitled "Cases on Trusts and Estates", both volumes were reviewed in this publication.¹ It will be recalled that there was a certain novelty of approach in these books, consisting of an interweaving of the various branches of the law with which a lawyer might be and usually is concerned in the creation of the average conveyance or devise in trust. The result in the opinion of some was quite unsatisfactory, in that there was evident a lack of continuity which seems so necessary for the beginner.² Sudden shifts from the law of wills to the law of taxation, and then to the law of trusts, were regarded by some as confusing, rather than enlightening.

In the preface of the book under review, the author has indicated that there is still a demand in many schools for a teaching vehicle in trusts, which follows the more formal method of presentation, a method by which the trust concepts and their application are set forth in logical sequence. In answer to the demand,

⁷ For example, see p. 803, fn. 25.

⁸ Oliphant, *The Future of Legal Education* (1928) 6 THE AMERICAN L. SCH. REV. 329, 332.

⁹ See note 8, *supra*.

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

¹ See O'Toole, Book Reviews (1933) 7 ST. JOHN'S L. REV. 379, (1933) 8 *id.* at 217.

² See Baker, Book Review (1934) 47 HARV. L. REV. 904.

the functional approach has been abandoned, and an "old fashioned" case and material book on the law of trusts has been published. Professor Powell, as usual, is thorough and has prepared a one-volume work which to those who prefer the "old" method should be most satisfactory.

The inclusion in this book of chapters on "Taxation Factors" and "Business Utilizations of the Trust Device" will serve to broaden the students' concept of the modern application as well as the current pitfalls of the trust device. All of which goes to prove that the "old" unglamorous method when applied to new matter is still very useful, even though it be not dramatic.

EDWARD J. O'TOOLE.*

BOOKS RECEIVED

CASES AND MATERIALS ON TAXATION. By Paul W. Bruton. St. Paul: West Publishing Co., 1941, pp. xxiii, 1228.

CASES ON MORTGAGES OF REAL PROPERTY. By Morton C. Campbell. St. Paul: West Publishing Co., 1939, pp. xxii, 794.

CONQUEST AND MODERN INTERNATIONAL LAW. By Matthew M. McMahon. Washington: The Catholic University of America Press, 1940, pp. vi, 233.

LEGAL REALISM AND JUSTICE. By Edwin N. Garland. New York: Columbia University Press, pp. xiii, 161.

ADMINISTRATION OF THE BANKRUPTCY ACT. Report of the Attorney General's Committee on Bankruptcy Administration. Washington: United States Government Printing Office, 1941, pp. xvii, 330.

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

NOTICE

St. John's Law Review

INDEX

A Cumulative Index to

VOLS. XIII	-	XIV	-	XV
1938-1939		1939-1940		1940-1941

Has been published separately with this number of the
ST. JOHN'S LAW REVIEW

Price per Copy - . . . \$1.00



REPRINT

Vol. I, No. 2 (May 1927) of the ST. JOHN'S LAW REVIEW,
which has been out of print for a number of years,
is now available.

Price per Copy - . . . \$1.00

St. John's Law Review

96 Schermerhorn Street

Brooklyn, N. Y.

TORTS ANNOTATIONS

For lack of appropriation of W.P.A. funds because of the defense program, research on the New York annotations to the American Law Institute's Restatement of the Law of Torts has been brought to a close. Only the preparation of manuscript from research results is continuing. That manuscript is gradually being prepared. During the editing, the research results are on deposit at the St. John's University School of Law. Members of the Bar may have access to the research reports upon appointment. Requests for appointments should be made to the undersigned.

DAVID S. EDGAR, JR.,
St. John's University School of Law.

"Judges who have had years of experience on the Bench have recommended this book and opined that it should be required reading for law students."—*Maurice Finkelstein, Professor of Law.*

LOOK at THE LAW

by Percival E. Jackson of the New York Bar

"An intelligent and well-balanced appraisal of the shortcomings of our calling."—*Maryland Law Review.* "Admirable . . . enthralling . . ."—*Frederick H. Stinchfield, former President of the American Bar Association.* "A very valuable contribution to the literature in its field."—*Herbert Harley, Secretary-Treasurer of the American Judicature Society.* "A valuable piece of work . . . If we don't clean our house, somebody else will tear it down . . ."—*Joseph N. Ulman, Judge, Baltimore Supreme Court, author of "A Judge Takes the Stand."*

\$2.75 (Obtainable at E. P. Dutton & Co., Inc., Publishers, 300 Fourth Ave.,
New York, N. Y.)