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Cases on Trusts, by George P. Costigan, Jr. (1925)

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Wellman's summation for the people in the Carlyle-Harris murder trial of 1892 is a remarkable effort and well worth reading. His disposition of the case for the defense is complete, and he reserves a very well put exhortation to the last two paragraphs of his address. The jury is reminded of the subversive influences it is exposed to in modern times beginning with the delays of the law which tend to dissipate the just indignation of the community, and ending at the trial with the tearful presence of the accused and his family, by calling their attention to the methods of the earliest juries which were summoned immediately on commission of the crime to the scene of the defendant's wrongdoing, there to be confronted by a mute appeal for justice in the presence of the defendant's victim.

There is also included, the summation for the People of William E. (later Senator) Borah in the Coeur d'Alene Riot murder trial, and Francis Garvan's address for the People in the Thaw murder trial. The outstanding example of defense pleading is the closing address of Clarence Darrow in the Leopold-Loeb trial.

On the civil side the most interesting selection for the layman will probably be the argument for the Socialists delivered by Morris Hillquit in the course of the investigation of the New York Socialists by the Assembly, March 3rd, 1920. For the lawyer, the speeches of Walter G. Merritt and Daniel Davenport in the Danbury Hatters case should be of more than passing interest, for questions of conspiracy in restraint of trade, inducements to breach of contracts, boycotts, and injuries in industrial relationships generally, are here involved, and these are right at the growing point of legal development today.

K. C. COLE.

CASES ON TRUSTS. By George P. Costigan, Jr. St. Paul: West Publishing Co., 1925, pp. xxxii, 1016.

This new book, by Professor George P. Costigan, Jr., is composed of cases fully as well selected as those presented by him in his excellent case-book on WILLS. The work discloses a very high degree of intelligent care in the use of just such cases as well illustrate the point of law or principle of equity involved in the particular classification, and in the judgment of this critic, the book will find general adoption in American law schools. Since the publication of Professor Kenneson's CASES ON TRUSTS, the law of this subject has developed very rapidly in this country, and there was ample room for a new work more comprehensive in its scope than was possible in earlier works.

The author justly acknowledges his obligations to the late Dean Ames for his knowledge of the subject, first acquired while a student under the dean's personal instruction and later on from the study and use of AMES' CASES ON TRUSTS. He also admits that Professor Scott's case-book has furnished inspiration.

We are told that less than one-third of the cases presented in the work under review have appeared in prior case-books, but that the author has retained those of historical value or intrinsic worth because they are landmark cases which should appear in every book of similar scope.

Chapter I is of great importance to student and lawyer because of the unusual space and selective ability given to mark the distinctions between strict trusts, on the one hand, and on the other, Uses, Agency Relations, Partnerships, Community Property Ownership, Bailments in General, Mortgages, Pledges and Conditional Sales, Equitable Charges, Specifically Enforceable Contracts, Debts, Obligations of Corporation Promoters and Directors, Executorships, Guardianships, Receiverships, Assignments of Legal Choses in Action and Non-Trust Gifts.

The writer is of the opinion that this first chapter alone fully justifies the publication at this time.

The remaining chapters furnish the usual classification in other works on the subject, namely Chapter II—The Elements of a Trust; Chapter III—Remedies of the *Cestui*, the Nature of His Interest, and the Remedies of His Creditors; Chapter IV—Some Duties, Powers and Liabilities of Trustees;

Chapter V—Priorities and Purchase for Value; Chapter VI—Statute of Frauds; Chapter VII—Statute of Wills; Chapter VIII—Constructive and Resulting Trusts and Kindred Relations. One hundred and eighteen pages are devoted to these implied trusts, and while this writer, with many others, is of the opinion that no sufficient justification exists for considering these implied trusts under the double classification, and that all implied trusts could very properly be deemed and named “constructive” trusts, since in every instance the circumstances surrounding the case receive the consideration and construction put upon them by the court, yet it is freely admitted that the author of a case-book cannot do otherwise than use the stereotyped and hackneyed phrase, “Resulting and Constructive Trusts.” And the cases selected by Professor Costigan in this chapter, like those in the first, disclose the most discriminating and intelligent care in their choice.

Chapter IX, the last, treats of the Modification and Termination of Trusts.

This writer is of the opinion that Professor Costigan is entitled to and will receive very great credit for the ability shown in the compilation of the cases selected, and also for the very helpful and ample notes which accompany many of the cases.

IVAN W GOODNER.