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Cases and Materials on the Law of Credit Transactions, by Wesley A. Sturgis (1930)

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BOOK REVIEWS

CASES AND MATERIALS ON THE LAW OF CREDIT TRANSACTIONS. By Wesley A. Sturges. St. Paul: West Publishing Co., 1930, pp. 1228.

This collection of cases, as the title indicates, furnishes materials for a study of the credit aspects of commercial transactions. A better grasp of the scope of these materials is possible when it is understood that the editor has combined in this volume much of the fundamental substance of the courses in bankruptcy mortgages, and suretyship and that an elimination of these courses from the curriculum is indicated if this case-book is used, although this is not strictly necessary.

Chapter 1 deals with accommodation contracts in general, chapter 2 with mortgages (real and chattel) pledges, and conditional sales, and there is a splitting of the insolvency and bankruptcy cases between these two chapters, as well as the Statute of Limitations cases and problems or consideration, etc., chapter 3 takes up the general problem of dealers financing by means of the various kinds of accommodation contracts, with special emphasis on stock in trade financing; chapters 4 and 5 are concerned with the functions of these devices in relation to the security holder—both as to his protection and the utility of the credit and security instruments in his hands; chapter 6 concludes the volume with a group of cases devoted to the study of enforcement procedure by the various parties to a credit transaction, including foreclosure, sale, and rights of redemption. The appendix is comprised of the full text of the Negotiable Instruments Law National Bankruptcy Act, Uniform Real Estate Mortgage Act, and the Uniform Conditional Sales Act.

Professor Sturges tells us in his preface that the "course is designedly elementary" and that "it is not intended to touch upon all, or the more complex, methods of financing." Nevertheless, the cases selected and the pedagogical devices adopted for a stimulation of individual and classroom discussion seem well adapted to the instruction of more advanced problems if the instructor desires to make use of them. However, it would hardly seem convenient, assuming it to be desirable, to go beyond the limits of current short term credit transactions through the medium of these materials.

That the case-book contemplates a functional investigation of the field it was designed to cover is made clear by the statement in the preface that "the author's immediate hope for this collection of teaching materials will be realized if it shall stimulate in any small way the pedagogical urge to deal with commercial law in terms of commercial doings, and to study legal decisions and propositions in terms of, and with principal emphasis upon, their effects on the business dealings and practices to which they relate." To this end the cases selected and the references included are almost exclusively modern and American. But Professor Sturges has been careful to include such materials as would make the book usable for those who do not care to make such an approach to the problems of commercial law.

To one who has not made use of it as a teaching tool, it appears to comprehend many interesting possibilities for the shaping of a course to meet the requirements of most teachers in its field, and it is this high degree of flexibility as well as the thoroughness of its detail and the

freshness of its approach that commends it for careful consideration by all who may be engaged in the study or teaching of commercial credit problems.

FRANK L. MECHEM.

CASES ON PLEADING AND PROCEDURE. By Charles E. Clark. St. Paul: West Publishing Co., 1930. pp. 674.

This casebook by Charles E. Clark, Professor of Law and Dean of the School of Law, Yale University, presents the subject of pleading in a new and interesting form. The book is to be followed by a second volume dealing with equitable remedies, joinder and splitting of causes of action, parties and their joinder, motions, demurrers and amendments.

The attitude of the author and the scope of the publication is best shown by the following quotation from the preface:

"There has been a tendency to emphasize history apart from the law of procedure, and largely as an introduction to the substantive law courses. And when the subject of modern pleading is at length reached, emphasis is placed on local rules. In the present casebook modern law administration is stressed throughout, and, while history appears, it is presented only to explain general principles of present day utility. It is believed that this leads to a more interesting and realistic, as well as a less time consuming, presentation. Among high lights of interest in the present volume are the following: The development of pleading and procedure from the days of oral pleading down through the common law to the present system; the distinction between law and fact and the nature of law itself, as the problem arises with reference to stating the case in the complaint; the handicapping process in law shown by the rules as to stating new matter in the answer, and as to burden of proof and presumptions; the effect of rules of pleading on the proof at trial; the development of contract actions and the present day attitude towards the common counts; the evolution of the real and personal property actions; the history of equity and its triumph over law; the attempt, still largely unrealized, to secure a real union of law and equity and the attendant questions as to trial by jury, appeals and equitable defenses; the enforcement of equitable decrees by contempt proceedings and otherwise, and the extraterritorial effect of such decrees."

This volume, well bound in *fabrikoid*, contains 674 pages and furnishes ample material for a course of 4 to 6 units. The cases presented have been selected with care and are mostly modern. While an occasional decision at common law is introduced to show the origin and development of principles of present value, no time is lost in considering mere technical forms, as in the commencement and conclusion of declarations, etc., at the common law, and other matters of that sort having no present-day utility except as history. It is believed that Dean Clark has in this publication presented a better method of acquiring a thorough working knowledge of pleading; a method that should make the study of the subject interesting to the student and without inspiring the terror with which he has been accustomed to approach the study of common law pleading.

The editor states that he contemplates using the present volume in a first year-course, taken somewhat slowly, of four to six units, and the proposed second volume in a shorter course of perhaps three units in the second year.

In the volume under review selected cases are arranged under these heads: