

BOOK REVIEWS

CASES ON TRUSTS (Second Edition). By Austin Wakeman Scott. Cambridge, 1931. pp. xiv, 818.

If one were compelled to confine one's library on the subject of Trusts to a single volume, the book under review may be recommended without hesitation either to the practicing lawyer or the law student.

For the law student it offers the best available approach to a subject which has at best a tendency to be somewhat elusive and which in the hands of anyone less than a master of the subject all too swiftly clouds into the proverbial "formless mystery" that has characterized many a presentation of equity. For the student, the great value of the work rests in the penetrating analysis and division of the subject-matter, the orderly and progressive development of successive topics, and the skillful selection and editing of the cases, both leading and recent, presented for study and discussion.

The analysis of the subject of Trusts was one of Dean Ames' great contributions to the law. This analysis Professor Scott ably developed in the first edition of his Cases, particularly with reference to "Charitable Trusts" and "Resulting and Constructive Trusts". In the second edition he has still further amplified and refined his classification, both to meet teaching problems and present-day developments of the subject. Thus, for the first reason in all probability, the section distinguishing a Trust from a Debt or Contract is subdivided and considerably rearranged, and "Charitable Trusts" are set off in a separate chapter. And for the second reason primarily, we find a new chapter on "Administration of Trusts" which includes new sections on "Powers and Duties of the Trustee," "Successive Beneficiaries" and "Liabilities of the Trustee to the Beneficiary". The chapter gives timely recognition to the growing importance of the topic of administration in trust problems.

A remarkably large number of the cases selected, both English and American, are of recent date, furnishing clear proof of the steady expansion of the subject. These cases take their place in logical sequence with the older leading cases in carrying out the editor's aim "to furnish the student with sufficient material to show him the nature of the trust device, what it is today and how it became what it is, what the functions are it performs and how it performs them".

If the work be subject to any criticism from the standpoint of its use by the student, it is that he may come to think, by reason of the very skill with which the subject is unfolded, that the problems involved are more simple than they really are. Such criticism, however, is not likely to be forthcoming from the modern student; and any systematic use, moreover, of the material embodied in the footnotes will speedily cure him of any such illusion of simplicity.

For the practicing lawyer the casebook is a veritable arsenal of trust material. "Practical" lawyers have long had an unreasoning prejudice against casebooks as legal texts, much as the courts have in the past scorned law review articles. Happily, both prejudices seem to be passing.¹ The book may

¹ Cardozo, Readings on Contracts, vii-ix.

be commended to any lawyer who has lingering doubts as to the utility of casebooks in active practice. Not only is the book equipped with a complete bibliography, but the notes which embellish practically every case are not only invaluable in themselves as embodying the seasoned research of the Reporter on Trusts for the American Law Institute, but they point the way to a wealth of textbook and law review material. No law office can afford to be without this study of a subject which promises to rival the corporation as a legal device. Indeed, as the editor points out in an appendix which deals with "Modern Uses of the Trust Device" and treats of the corporate trustee, insurance trusts, the trust as an instrument in avoiding or reducing taxes, the trust in business, "the purposes for which the trust can be employed are limited only by the imagination of lawyers and men of business and by the policy of the law".

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NEWARK, N. J.

NEW JERSEY LAW PRACTICE. By James Morgan Sheen. Newark: Soney & Sage Co. 1931, pp. li 1330.

The bar of New Jersey has for some time felt the need of a comprehensive book on Law Practice. Such earlier works on the subject as Besson's *Law Precedents*, and Jeffrey's *Law Precedents* are now out of date as well as out of print, and at best are of little value to-day to the busy practitioner who desires a ready reference book.

Dean Harris's book entitled *Pleading and Practice in New Jersey* is much more useful and satisfactory, but is designed rather for the law student than the practicing attorney.

Mr. James M. Sheen has recently compiled and published a second edition of his work entitled *New Jersey Law Practice*. This book is frankly described by him in the foreword as a "practical working tool." Necessarily, therefore, it consists largely of a compilation of the provisions of the statutes regulating law practice and of the court rules with reference thereto.

The sections of the various statutes are set forth fully and followed by ample citations and annotations from the several cases. The text is fully indexed, even to such an extent that of the first volume of 1330 pages 561 are taken up by the index. The book should serve adequately as a ready reference to the statutes and cases bearing thereon.

In the preparation of pleadings and in practice, it is desirable that the lawyer should be thoroughly familiar with the earlier practice. To understand the modern system, the basis of that system and reasons which led to its development into the present pleading and practice should be comprehended. Mr. Sheen does not in any way endeavor to cover that field. Nor does his book deal with procedure not included in the statutory provisions. As an instance of this, the work does not cover or refer to applications for new trial on the ground of newly discovered evidence or misconduct of the jury.

It is also apparent that the Editor has not attempted any critical analysis of the various cases or any extended summary of his own of the effect of the decisions which might assist the bar in making the practice uniform and harmonious. In