

BOOK REVIEWS

CASES AND MATERIALS ON THE LAW OF POSSESSORY ESTATES. By Richard Powell. St. Paul: West Publishing Co. 1933, pp. 541.

"Cases and Materials on Possessory Estates" is a descriptive title. The book contains some cases and it follows, in places, the traditional "casebook method". However, it is not a casebook. It indicates a drift toward the Dwight System. That is a welcome change for the man who teaches and the student who undertakes to study first year property law.

Professor Powell in the first place attempts to paint a background. For this object he uses excerpts from Cardozo,¹ Theodore Roosevelt,² Pollock,³ Gilbert,⁴ Vance,⁵ Restatement of the Law of Property,⁶ Bigelow,⁷ numerous text books, histories, some cases and a generous sprinkling of statutes. His chief concern is to lay a foundation by showing the beginnings of concepts and institutions; the origin of the division between legal ownership and equitable interests in the evolution of uses; the development of conveyancing techniques and the revolution therein caused by the Statute of Uses.

I join the ever increasing group of persons who hold that an objective of this kind cannot be attained except by an expository method. Professor Powell applies the technique of the case method to Professor Dwight's theory with fine results.

The editor has avoided the dangers implicit in a course dealing solely with backgrounds. The subject of Possessory Estates being the central theme for this volume, the student devotes much of his attention to a limited area of property law in which the old and the new form a continuous movement, and the significance of the old law in the moulding of present law is readily apparent.

It is a surprise to find, in a book of this purpose, the relevancy and materiality of the modern statutory law, constantly stressed. Previously this was the task of the instructor, where time permitted; or, the student was left to his own efforts in a non-statutory law of property. The importance of training the student in the integration of this statutory element and of the judge made law in his jurisdiction was never greater and will increase tremendously unless present signs are misleading.

The fourth objective of the editor is the imparting of another technique, useful throughout the professional life of the student. The materials presented afford an unusual opportunity for the instructor to drive home the usefulness and importance of being able to read materials with meticulous attention to details and to contrast two or more texts for inconsistencies and for

¹ NATURE OF THE JUDICIAL PROCESS, 1921-54.

² Message to Congress, Dec. 8, 1908.

³ LAND LAWS, 2nd Ed. 1887, II.

⁴ TENURES, 5th Ed. 1824.

⁵ THE QUEST FOR TENURE, 33 YALE L. J. 248, 256.

⁶ Tentative Draft No. 1.

⁷ INTRODUCTION TO THE LAWS OF PROPERTY (1933).

supplementary statements. This habit is so necessary and so often undiscoverable.

On the whole this book makes a useful contribution to the task of teaching property law. It combines a useful compilation of history, text, statutory law, and well-chosen cases⁸ with a searching group of notes. It is a worthy book in its field, compiled from the viewpoint of a new idea.

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CASES AND OTHER AUTHORITIES ON THE LEGAL PROFESSION AND ITS ETHICS.
By George P. Costigan, Jr.

This volume, in the American Case Book Series of the West Publishing Co., is a second edition of a first publication brought out in 1917. So much has been said and done with respect to the ethics of the legal profession in the intervening years, that it is quite appropriate that a second edition of this work should come out now. The extent of the material from these years which has been added to the volume, indicates how thoroughly Professor Costigan has gone about the preparation of his second edition.

No thoughtful person will dispute the importance of books of this kind. As burdens multiply upon the busy lawyer, through the ever-growing complexity of business and the regulation of business by law, the practicing lawyer and the student or younger member of the bar in his office are drawing further apart. The opportunities for personal contact between them are becoming less. It is almost impossible for the lawyer to give to his student or junior associate the time and attention possible in more leisurely days.

One leaves a perusal of Professor Costigan's book with the feeling that he has been sitting at the foot of a high-minded, learned and experienced member of the bar and has heard from his own lips the experiences and problems with which he has wrestled in the course of a full life.

What this book has to impart, should come early in the education of every prospective lawyer. Practicing lawyers as well can with profit dip into this reservoir of information and instruction. In a very adequate way the author has carried out his thesis that "the illegality of the conduct treated" should be "as subordinate as possible to the moral problems," or, as otherwise stated in the quotation from Henry W. Williams, "'Professional ethics' is not a distinct system of morality, but it is the application of the accepted standards of right and wrong to the conduct of professional men in the business relations peculiar to their professional employment."

For the lawyer interested in the history and ideals of his profession, this book makes fascinating reading. A mass of material has been collected with care and discrimination. The extracts from the cases and the quotations from

⁸ For example: *Taltarum's Case* p. 100, *Martin v. Smith* p. 273, *Tyrell's Case* p. 526, *Bamford v. Turnley* p. 352, *Brown v. Robbins* p. 326, *Embrey v. Owen* p. 374, *Green v. Wiseman* p. 488, *Perrin v. Harrington* p. 299, *Townsend v. Moore* p. 235, *Wheeler, etc. v. Kirtland* p. 161.