

## BOOK REVIEWS

**CORPORATE REORGANIZATIONS UNDER SECTION 77B OF THE BANKRUPTCY ACT.** By John Gerdes. Chicago: Callaghan and Company, 1936. Vol. I, pp. xlv, 816; Vol. II, pp. xix, 1760; Vol. III, pp. ix, 2859.

Professor Gerdes brings to his task the experience gained in twenty-five years of practice and the collection and organization of materials developed in years of teaching corporate reorganization. The result is a set of three volumes which deserves to rank high among the text-books dealing with statutory law.

While the volume of decisional matter under Section 77B of the Bankruptcy Act is growing rapidly, the accumulation of the past two years leaves much of the statute still to be documented. In attempting to cover every phase of corporate reorganization under the new amendment, procedural as well as substantive, Professor Gerdes has had to chart unexplored vistas. His compass is the thesis that Section 77B is designed to remedy the evils and displace the abuses which flourished in reorganization of corporations undertaken in the state and federal courts of equity. In his view, the statute is remedial and should be liberally interpreted to eliminate the undesirable features of the earlier practices.

Conceding the validity of this approach, many readers will differ from Professor Gerdes' conception of the evils to be eliminated. By and large, the author's point of view is that of the large commercial interests who found earlier reorganization both troublesome and expensive, because of their inability to dominate aggressive and well represented minority interests. However, smaller investors often discovered that confidence reposed in reorganization committees was misplaced.<sup>1</sup> In applying the amended act, it may be more important not to lose sight of the problems which confront the small investors than to dwell upon the larger interests for whom the statute removes many obstacles to speedy reorganization upon their own terms.

To the practicing lawyer, Professor Gerdes' treatise is certain to prove of great value. While all text matter is amply annotated, the work is more than a digest or encyclopedic collection of authorities. The reasoning and argument is uniformly cogent and precise. Ambiguities in the statute are fully explored and the consequences of all permissible interpretations are carefully studied before a preference is indicated. The arrangement of subject headings is both logical and orderly and follows in the main the chronological sequence of events in a typical reorganization. The publication of forms has been deferred until the promulgation of General Orders in Bankruptcy dealing with Section 77B. Provision has been made, however, for the distribution of pocket supplements in which such forms may be included and the text and footnotes kept up to date by periodic revision.

The usefulness of the volumes as a work of convenient reference is assured by the inclusion of a comprehensive index, table of cases and table of secondary authorities.

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1. Lowenthal, "The Investor Pays" (1933).

*HANDBOOK ON THE LAW OF DAMAGES.* By Charles T. McCormick, Professor of Law in Northwestern University. St. Paul: West Publishing Co. 1935. Pp. vii, 811.

This volume makes no pretention to profundity; a handbook, it purports merely to lay down the rules pertaining to damages clearly enough to afford a starting point and a guide to the student and practitioner. In this it undoubtedly succeeds. No one need puzzle over anything said therein. The most involved problems in the subject are presented with a lucidity and definiteness which makes them seem simple.

In addition, the book has the merit of completeness. After a brief introduction and cursory historical survey, the author covers almost the whole field of damage law. The only addition which might be suggested is a chapter dealing with money compensation in equity.

However, one wishes that the work were intensive in its character as well as extensive in its scope. While some portions reveal the very highest scholarship, such as those dealing with punitive damages and the use of mortality and annuity tables as a basis for damages, others contain statements so general as to be of little value. Sometimes there is even inaccuracy. An example is the statement at p. 291 that, "Where the breach of promise of marriage is wanton or deliberate, exemplary damages may be allowed," which ignores the fact that the elements of damage in a breach of promise action are entirely different from those in an ordinary suit. There, plaintiff must be compensated for loss of social standing, humiliation, damages to marital prospects, elements which leave the jury great latitude in fixing a sum, but which do not permit the jury to assess damages with the purpose of punishing the defendant.

Occasionally, the discussion deals with material so rudimentary as to be valuable only to the student. One example is the enumeration of lines of attack upon the instructions of a trial judge in regard to damages. Another instance is the advice given in dealing with the drafting of liquidated damages clauses to recite that the sum is agreed upon "as liquidated damages and not as a penalty."

The documentation of the book is most uneven. Occasionally, an unusual citation, such as a reference to the mortality tables in the New Jersey Chancery rules, points to careful and intensive research. At other times, only one or two cases is cited in support of a proposition which the text declares to have received countrywide approval. But though citation of cases may be comparatively meager, citation of other types of material is not. There are frequent references to *Corpus Juris*, *A. L. R.*, digests, leading texts, casebooks and periodicals. The lawyer who cannot find the case he wants in the footnote can probably find it in some treatise cited there.

The author's approach to the subject seems essentially sound. He realizes that damages, although the essence of the case so far as the parties to the litigation are concerned, have too often been treated in vague formulae, that guide neither the jury nor the attorney. He also appreciates the fact that while such treatment cannot be avoided in fixing compensation for intangibles such as pain and suffering, it can be eliminated in many other matters. Thus he advocates more scientific analysis of the value of the human body and human life. He urges not merely the use of mortality and annuity tables, but of all the statistics compiled by life insurance actuaries. On these propositions there seems little room for argument. Certainly, a jury verdict

will become less of a speculation if judges can avail themselves of accurate scientific data in passing on its propriety. And perhaps attorneys will be less impelled to make a law-suit a conflict of emotions and prejudices if they have at hand, and are entitled to use, material which will enable them to accurately and definitely prove the extent of their clients' damages.

However, the author's legal acumen does not equal his common sense. He has failed to provide us with the arguments which would justify a court in the use of such materials. In dealing with other problems, also, there is apparent a lack of that intensive study and keen analysis which is the mark of the really good text book.

The keynote of the book is practicality. The lawyer who seeks a simple general statement of the law on questions which arise in practice, or a "lead" to further material can find it here. He may even find specific advice on what to do. The student who wants a review of a problem which he can understand without too much difficulty will also find it useful. Outstanding scholarship is infrequent, but the book does not suffer by comparison with other works in the same field.

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