

December 1937

## Book Reviews

Chicago-Kent Law Review

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### Recommended Citation

Chicago-Kent Law Review, *Book Reviews*, 16 Chi.-Kent. L. Rev. 73 (1937).

Available at: <http://scholarship.kentlaw.iit.edu/cklawreview/vol16/iss1/7>

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## BOOK REVIEWS

RECENT THEORIES OF SOVEREIGNTY. Hyman Ezra Cohen. Chicago, Illinois: The University of Chicago Press, 1937. Pp. ix, 169.

Here is a book dealing with the theories of sovereignty developed during the latter part of the nineteenth and the early part of the twentieth century. The author has endeavored to present an interpretation of the various concepts and patterns of sovereignty and to indicate the repercussions in this branch of political theory caused by impact with rapidly changing economic and social forces.

The entire study is extremely theoretical and general in its nature, and as such, probably will possess greater interest for the legal philosopher than the legal practitioner. Mr. Cohen, an instructor in Political Science, seems to be a great deal more interested in the abstract idea of sovereignty than in the practical implications of the various theories he discusses. He studied abroad extensively in gathering materials for this book and exhibits a thorough knowledge of the literature of his subject as evidenced by a fifteen-page bibliography of materials used.

In his introduction to this work the author states that he will delve into the theory of national sovereignty as argued by Aèhar Esmein, its French exponent, the theory of state sovereignty, or auto-limitation, supported by Georg Jellinek, the important jurist of the federated German Empire, and the reactions to Jellinek found in one of his pupils, Hans Kelsen. Mr. Cohen then pursues his quest of the secrets of sovereignty into the dualism in law between international and intrastate law as expounded by such international lawyers as Quincy Wright and by the political scientist, Harold J. Laski.

Although this book will undoubtedly arouse in the reader an earnest respect for Mr. Cohen's scholarship, his library and his vocabulary, it is doubtful whether the practical student of the law will find himself greatly enlightened by it.

AN AUTOBIOGRAPHICAL SKETCH BY JOHN MARSHALL. Edited by John Stokes Adams. Ann Arbor, Michigan: The University of Michigan Press, 1937. Pf. xxiii, 48.

It is unnecessary to suggest the importance to students of the law of any and all materials which give a clearer insight into the

life, the personality and the thoughts of John Marshall. All too little is known about the great chief justice whose influence on the law of our land still echoes in our courts. Here is a book which contains, in Marshall's own words, a description of his early life, his participation in the revolutionary war, his entry into the practice of law, his adventures in politics, the "X Y Z" affair, up to and including his appointment as chief justice.

This material is contained in a letter written by Chief Justice Marshall to Joseph Story at the latter's request. Scholars did not know of its existence until the death in 1932 of Mrs. Waldo Story, the widow of Justice Story's grandson. When the family possessions were sold this letter was among them. In the words of the editor of the manuscript, "It is the most important document written by Marshall about himself. It is fuller and more complete than any other personal thing that came from his pen. It fills sixteen foolscap pages and in form is an undated letter. At its top Story wrote, 'Written in 1827. J. S.'"

Undoubtedly this autobiographical sketch is of great historical value but to the student of history or law it gives that personal contact with John Marshall in an unofficial moment, relaxed from the dignity and self-consciousness of the bench, commenting upon his own purposes, ideas and reactions. It makes thoroughly interesting reading.

ADMINISTRATION OF WORKMEN'S COMPENSATION. Walter F. Dodd.  
New York: The Commonwealth Fund, 1936. Pp. xi, 845.

This is a most comprehensive and readable volume of the problem of administering workmen's compensation. In addition to the purely administrative problems presented, there is a wealth of material that suggests the possibility of reform in the substantive law of compensation.

Mr. Dodd acknowledges his indebtedness to many without whose assistance he could never have encompassed the breadth and depth of the subject. Statistical information alone seems enormous in amount. To use a well worn phrase, the volume is a store house, but a store house admirably organized. A copy should be in the hands of every legislator and administrator, and a reading of the book will reward those interested in government, social sciences, the law or lay affairs. The intelligent employer and his insurer will be vitally interested.

The approach is historical but sympathetically made from a humanitarian viewpoint. The separation of employer's liability and workmen's compensation is clearly presented. We see the newly created administrative bodies displacing the judiciary which has been outmoded by social change. Cold facts become suffused with the vitality of social interest. It is an understatement to say that the volume is readable and absorbing.

Mr. Dodd says in the preface that conclusions have been expressed on various matters in some detail. Actually the reader's criticism might be that Mr. Dodd has not drawn as many conclusions as the facts warrant. The book groans under its load of facts and statistics and it is to be regretted that its author did not go farther and set up a table of recommendations for the benefit of legislative bodies. Practical suggestions for appropriate legislation on such matters as occupational diseases and personnel would be useful. Perhaps it is not too late to hope for a supplement to this study which will suggest steps to be taken by the legislatures to aid in the solution of workmen's compensation problems.

CASES ON THE LAW OF NEGOTIABLE PAPER AND BANKING. (Second Edition.) Ralph W. Aigler. St. Paul, Minnesota: West Publishing Company, 1937. Pp. xvi, 1157.

Any general commendation of a work by Professor Aigler is wholly superfluous. Its high scholarship must be conceded at the outset, and attention devoted directly to the treatment of the materials. The outstanding feature of the work is the segregation and expansion of the cases on banking ordinarily found in a book upon negotiable paper and the creation of a separate "part," occupying the first 358 pages of the book. This part is, in turn, broken down into four chapters: "Legal Relations Between Customer and Banker," "Duties of Bank and Depositor Inter Se in Normal Relationship of Debtor and Creditor," "Collections," and "Bankers' Lien and Set-off."

Another feature of the arrangement is the editor's election to place the material upon liability of parties ahead of that upon the question of negotiability itself. The principal material upon the so-called "defenses" comprises a section of the chapter on "Holders in Due Course." Much of the material ordinarily treated under "defenses" has, of course, been relegated to the

part on banking and particularly the section dealing with the duties of the customer to the bank.

Aside from these two more or less novel features of arrangement, the treatment is distinctly orthodox. The work is decidedly a casebook, not a collection of cases and material, or materials with cases. Its publication seems a reaffirmation by a very competent teacher and scholar in this field, that, if the present method of presentation of this subject is not as satisfactory a one as might be desired, at least it is basically sound. This is most reassuring at the present time. Moreover, it is believed that Professor Aigler should be complimented for avoiding a vice common to those introducing a new casebook into a field already fairly well occupied—he has not hesitated to use desirable and leading cases simply because they are already in use in other works.

In conclusion, it may be queried whether the presentation of the materials in a disarming fashion is of as great practical value as keeping the statute conspicuously before the student in boldface type interspersed through the text itself—the bolder the better.

CASES AND MATERIALS ON THE LAW OF DEBTORS' ESTATES. (Second Edition.) Wesley A. Sturges. St. Paul, Minnesota: West Publishing Company, 1937. Pp. xv, 1008.

In inspecting a new edition of a work upon this subject, published five years after the original edition, one's natural inquiry is, of course, whether or not sufficient cognizance is taken of the developments and trends during that period. Moratory legislation, of especial importance during the earlier part of the period, seems adequately treated under "Debtor Relief—Individuals" and other appropriate headings. The subject of corporate reorganization is touched, somewhat briefly, but perhaps sufficiently for the purposes of such a general course as that for which the present work is intended. The scantiness of these materials is explained by the editor in his preface—they are being reserved for a separate volume on reorganization.

A third "Part" has been introduced into the new edition dealing with the subject of "Displacements of Compositions, Assignments, and Receiverships by Proceedings under the Bankruptcy Act," in which, as suggested by the title, some brief attention

is given to the ousting of state jurisdiction by the institution of bankruptcy proceedings, a situation which has become increasingly acute, especially under 74 and 77B.

The editor has taken advantage of the tremendous volume of cases decided during this interval, both Federal bankruptcy cases and receivership cases in the state courts, to bring up to date not only the text, but annotations as well. The accompanying flood of text and law review material has assisted in making possible a second edition well implemented with collateral citations, and worthy to succeed the original volume.

CASES ON TRADE REGULATION. Milton Handler. Chicago, Illinois: The Foundation Press, Inc., 1937. Pp. xxv, 1288.

This book will be found of invaluable aid to every lecturer in the subject matter with which it deals, but whether it may be recommended to every such lecturer as the casebook for his class room is another question.

The book reflects an amazing amount of research, not only in legal precedent and history, but also in economic and sociological backgrounds and trends and in current business practices and problems, and this wealth of material is interspersed with thoughtful notes, summaries, and copious references.

Where the lecturer has time to uncover, condense, and rearrange until he has, bit by bit, constructed a readily comprehensible sequence of material for assignment and class room discussion, this compilation will be found to contain a profusion of materials for such purpose. But where the casebook should, so to speak, run on its own power, so that the class may be entrained at the introduction and carried through to the index with only an occasional short-cut to adjust the journey to the allotted time, this book will hardly serve. It is too ponderous and unwieldy for such a purpose.

The author's purpose in his choice and arrangement of materials is explained in the preface as follows: "The book is so arranged that the new and pending legislation can be readily integrated into the several chapters to which they relate. These shifts in current interest and importance have made it desirable to include more material in this volume than can be advantageously covered in a single course. I have sought by the amplitude of treatment to give the instructor sufficient elbow-room to move

about the field and to shift the emphasis of his treatment from year to year."

The eighty pages of economic and sociological materials set forth in Chapter II under the title "The Emergence of the Competitive System" might well be rounded out and digested into an editorial exposition of that subject matter. This the author has done in his comprehensive Chapter I entitled "Government and Business." And the materials in the succeeding chapters on contracts and combinations in restraint of trade (Chapters III to V) and unfair competition, statutory and non-statutory, including trade-marks and trade names (Chapters VI to XV) might be separated into fundamental and supplemental groupings.

COMPARATIVE COMMENTARIES ON PRIVATE INTERNATIONAL LAW OR CONFLICT OF LAWS. Arthur K. Kuhn. New York: The Macmillan Company, 1937. Pp. xii, 381.

This latest edition to the treatises on Conflict of Laws is especially significant on account of the increased scope which it gives to this new subject. Heretofore the case books on Conflict of Laws have dealt with the subject in its relation to the cases arising in the English and American courts and have emphasized its relation to the development of the common law. The present work, however, considers the subject in its relation to the jurisdiction of Continental Europe and traces the development of Conflict of Laws from the *Jus Gentium* of the Roman Law. It deals with it as a part of International Law. It is a very valuable text book and can be recommended to advanced law students who desire to supplement the work in the case books with a broader view of the subject.

CASES ON INTERNATIONAL LAW. James Brown Scott and Walter H. E. Jaeger. St. Paul, Minnesota: West Publishing Company, 1937. Pp. lxix, 1062.

The ancestor of this work was by Freeman Snow, who published his cases on International Law in 1893. Since that time there have been three editions prepared by Mr. Scott based on Snow's earlier work. The present edition is not developed by merely English and American decisions but by those of some sixty sovereign nations in the world at large, the American cases

constituting less than 20 per cent of the work. In addition the work includes a large number of arbitral awards and other material extraneous to case decisions. A novel feature is a collection of problems, of which some two hundred have been included. These are based on the leading decisions of the Supreme Court of the United States and are grouped under suitable headings.