

Michigan Law Review

Volume 18 | Issue 6

1920

Book Reviews

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Recommended Citation

John B. Waite & Ralph W. Aigler, *Book Reviews*, 18 MICH. L. REV. 567 (1920).

Available at: <https://repository.law.umich.edu/mlr/vol18/iss6/7>

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BOOK REVIEWS

THE NEGOTIABLE INSTRUMENTS LAW, Annotated by Joseph Doddridge Brannon, Professor of Law Emeritus, in Harvard University. Third Edition. The W. H. Anderson Company, Cincinnati, 1920, pp. lxvi, 662.

That this is the third edition of this compilation, indicates a favorable reception by law book buyers. In this case the demand should not be confined to lawyers, for the book would be of particular value to bankers and others of the lay world who have to deal with commercial paper. And for such readers, who seek practical information as to the characteristics and qualities of particular instruments as affected by the Uniform Negotiable Instruments Act, it must be an extremely useful book. Even the lawyer, who will go eventually to his digests, can find the preliminary information he needs compiled herein. Its small size, however, precludes a very extended collection of authority on any one subject. The half page, for instance, of decisions bearing upon § 2, 1 "a sum certain * * * although * * * with interest" can not compare with the eight pages of annotation in 2 A. L. R. 135, not to mention the digests.

The compilation is in no sense a text-book and would not serve as such. In due time our law of negotiable instruments will consist, as does the law of patents, of the statute as a base and a full and complete structure of interpretation and application thereof by the courts. At present, however, that part by which the future is to be known is most of it still antecedent to the adoption of the Uniform Act. There can be no sound instruction in the law of bills and notes which does not include a presentation and analysis of the common law to an extent not even suggested in Mr. Brannon's annotations. But the purpose evidently intended by the editor is well accomplished. Owing to its cross reference of sections it is a convenient copy of the Act for use in any state and its notation of differences in wording of the Act in various states makes it a valuable time saver for any one concerned with the law in other jurisdictions. The retention in this edition of the controversial discussion between Professor Ames and Judge Brewster might well have been discarded in favor of some of the more recent comments which have been published. The annotations themselves, however, and the occasional discussion such as that under § 20—"signing as agent"—are thoroughly satisfying in the clarity and accuracy with which they are presented.

JOHN B. WAITE.

CASES ON PROPERTY (Rights in Land) with an INTRODUCTION TO THE LAW OF REAL PROPERTY. By Harry A. Bigelow of the Law School of the University of Chicago. St. Paul: West Publishing Co., 1919, pp. vii, 88; xviii, 741.

This book appears as volume two of the CASES ON PROPERTY in the AMERICAN CASEBOOK SERIES, and completes the treatment of property therein. With

volume one, also prepared by Professor Bigelow, the book just published covers the ground of the first two volumes of GRAY'S CASES. The arrangement, however, is somewhat different, not only as to cases but as to topics. Professor Bigelow puts Fixtures and Emblements into volume one, covering Personal Property. There surely is as much to be said for putting these topics with Personal Property as with Real Property. If "fixtures," for instance, were always *fixtures*, this would not be true. Waste is included in the present volume, and this for reasons stated below would seem proper.

Professor Gray evidently thought of the privileges and rights of the possessor of land in regard to the air, earth and water whether *acquired* or not as rights in the land of another. Professor Bigelow avoids this error; (See *Conant v. Irrigation Co.*, 23 Utah 627; *Ladew v. Tennessee Copper Co.*, 218 U. S. 518; 9 ILL. L. REV. 541). He divides his book into two parts—(1) "Rights Incidental to Possession" and (2) "Rights in the Land of Another." The former are Gray's "Natural Rights." The reviewer's only criticism of the present arrangement is the placing of Waste under the second heading. While it may be said in a sense that the reversioner or owner of the underlying estate has rights in the land of another the invasion of which amounts to the wrong we know as waste, such rights seem rather inappropriately considered along with Profits, Easements, and the like. It is suggested tentatively that Waste should have come in Part One.

The possessor of land, nothing else appearing, may not only fairly be deemed presumptively as the owner, but *prima facie* he may make such use thereof as he desires. Such freedom of use, however, is cut down by various considerations. The possessor must remember that he lives in a state of society and that he has neighbors occupying their land with like rights and privileges of use thereof—this involves the law of nuisance, and is covered by Professor Bigelow in his Part One, by Professor Gray in his "Natural Rights." The *prima facie* complete freedom of the possessor may also be cut down (1) because he lives in a state of organized society—the state may place limitations upon his use (see *Opinions of Justices*, 103 Me. 506.) and (2) because there is someone who owns an underlying estate which is going to entitle the holder thereof to possession in the future. One might go a step farther in this view and add a fourth limitation—because someone has acquired a right over such land. It is submitted that it is only in the situation last mentioned, however, where one can fairly say that there is really a *right in the land of another*.

Professor Bigelow has brought together a remarkably good collection of cases as a basis for the discussion of the law applicable to the topics covered. English cases of course are used, but the American cases largely predominate. The book is not over-annotated, but the notes are amply sufficient to guide the teacher and to furnish the ambitious student with material for search and thought. After all, the chief test of any case-book is: Is it teachable? The reviewer has made use of the book sufficiently to know that it is. It is what one has every reason to expect from such a splendid teacher as Professor Bigelow.

The first eighty-three pages of the volume are devoted to an "Introduction to the Law of Real Property." Here is covered the usual historical matter, most of it, however, being presented in Professor Bigelow's own language. An Introduction to the Law of Real Property in eighty-three pages obviously must be sketchy, it can in the nature of things be only the basis of a study or presentation. Whether or not such matter should be brought together as has been done here or taken up piecemeal in connection with appropriate topics may be questioned by some. The writer happens to know that Professor Bigelow's original inclination was against such bringing together. He consented to do the work only after being convinced that there was a quite general demand for it. Many teachers of Real Property will find the Introduction very valuable and usable.

RALPH W. AIGLER.

THE SOLDIER-LAWYER DIRECTORY, compiled and edited by R. W. Shackelford, G.B. Zewadski, and J. W. Cone (R. W. Shackelford, Proprietor) 1920. The Tampa Tribune Publishing Co., Tampa, Fla. Pp. vii, 201.

The compilers state that their purpose in preparing the directory has been two-fold: (1) "primarily to construct a work that would enable those attorneys who, in the majority of instances, gave up their practice for their Country's Service, to co-operate with and assist their former comrades in arms in the practice of law," and (2) "to provide a permanent record of the service rendered by the Legal Profession during the greatest crisis in the history of these United States."

In the directory, which is arranged in the usual way, may be found the names of one or more attorneys who were in the service of the United States during the Great War in practice in almost every city of any consequence. Among the data given are the year of birth, year and place of graduation in law, and fields of practice. The roll also includes Canadian cities and veterans in practice there.

The feeling of brotherhood growing out of common service and, in many instances, perils will lead to a frequent resort to such directory. It must be obvious that as a permanent record of the part played by lawyers in the great crisis the book is utterly inadequate.

RALPH W. AIGLER.

FEDERAL INCOME AND PROFITS, TAXES, including Stamp Taxes, Capital Stock Tax, Tax on Employment of Child Labor, by George E. Holmes of the New York Bar. Indianapolis, The Bobbs-Merrill Co., 1920; pp. xv, 1151.

The complexities of our present Federal Revenue Laws are such as to baffle the proverbial "Philadelphia lawyer." Not a little of the difficulty is due to the haste in which the legislation was framed, and it is reasonable to hope and expect that amendments will remove many of the troublesome problems. Inevitably there will remain plenty of difficulties, and in the meantime lawyers must be in position to advise as best they can. This is peculiarly a field in which a book to be really helpful must be up to the minute. This edition of Mr. Holmes' book appears to be complete up to 1920. The

author of course makes use not only of the court decisions but of the Treasury Decisions and Regulations; The Income Tax Service (I. T. S.) and The War Tax Service (W. T. S.) issued by the Corporation Trust Company of New York, is referred to as sources of information on these rulings and regulations. The up-to-date-ness of the book is well shown by the discussion (pp., 316 *et seq.*) of the taxability as income of stock dividends, decided authoritatively by the Supreme Court in *Eisner v. Macomber*, 40 Sup. Ct. Rep. 189 (March 8, 1920).

As a textbook on the subject of Federal Taxes this new edition of Mr. Holmes' book will be found extremely helpful.

RALPH W. AIGLER.