

BOOK REVIEWS

CASES ON EQUITY. One Volume Edition. By Walter Wheeler Cook. West Publishing Company, St. Paul, 1926, pp. xix, 1179.

This is an abridged edition of the author's three volume edition of cases on equity. It includes the subjects of injunctions, treated in the first original volume, specific performance, treated in the second, and part of the material dealing with fraud, misrepresentation, and mistake covered in volume three. These volumes have already been reviewed in this REVIEW and it is unnecessary to repeat the favorable impressions made by such excellent selections of cases. The present volume is well adapted for use by instructors who like to present equity as a whole and call upon the students to turn from one part to another of a single volume. Necessarily in squeezing the material into a single volume some familiar problems are missing, such as those presented in *Kempson v. Kempson* and *Casey v. Fitton*, but on the whole, the cases are well adapted to present an outline of the larger branches of modern equity. The chief distinction of Professor Cook's work lies in his effort to break away from the traditional case book which treats the principles of equity in separate compartments of tort and contract law and to substitute an analysis of the principles of equitable relief as a system.

W. H. Lloyd.

University of Pennsylvania.

CASES ON THE LAW OF SURETYSHIP AND GUARANTY. By Herschel Whitfield Arant. Callaghan and Company, Chicago. 1926, pp. xiv, 1074.

Dean Arant's collection of cases comes as a timely contribution. It is a full quarter of a century since the publication of Dean Ames' Cases on Suretyship, and although the high quality of that work is attested by the fact that it remains in general use, the inevitable evolution of the subject in this commercial age, and the increasing importance of the compensated surety, has created a demand for an adequate treatment of the case material which has grown up in the interim. This need has been met by the editor, who, as he says in his foreword, has attempted "in this collection of cases to develop the general principles of suretyship as they apply to the accommodation surety and then, against this background, to show the principal changes that have taken place since the rise of the corporate surety."

To the instructor taking up this volume for examination, it augurs well that the editor acknowledges himself to be "One whose teaching of this subject has been based exclusively upon the excellent collection of cases by Professor Ames." He will anticipate carefully selected case material, and adequate annotation, nor will he be disappointed. The cases are also well distributed as to jurisdictions represented. The everyday importance of the subject is emphasized by the fact that nearly one-third of the entire collection date from 1915, while approximately one-fourth of all the cases have been handed down within the past five years. On the other hand the older leading cases, such as *Williams v.*

Leper,¹ *Pain v. Packard*,² and *Cambridge Savings Bank v. Hyde*,³ have not been discarded. The annotation is well balanced, and, in accordance with the modern practice, presents frequent references to the law review literature dealing with various phases of the subject.

It is to be regretted that the arrangement has followed that of all the preceding casebooks in this field by ignoring in title, table of contents, and annotation the fundamentally relational character of this branch of the law. The practicing lawyer seeking a point of law involving sureties will not find it under the title "Suretyship," but in the exhaustive modern digests, as of old, must turn to the ancient Common Law title of "Principal and Surety." The same is true of the indexes to his state reports. This is one of the typical Common Law relationships, always to be recognized by the dual title derived from the legal designations applied to the respective parties in the ordinary and normal business or social transaction of the community life governed by that relationship.

The casebooks in the field of Agency present an interesting contrast. Like Suretyship that subject deals with a common law relation—that of Principal and Agent, and at least fifty per cent. of the recent editions of Cases on Agency recognize the relational nature of the subject in their table of contents. On the other hand, as stated above, the casebook treatment of the subject of Principal and Surety has been uniformly from the viewpoint of contract rather than relation. It is submitted that it is high time that the relational feature of these subjects should be brought home to student, practitioner and judge, for therein lie the bases necessary for growth in harmony with the genius of the Common Law. The courts will no longer feel called upon to manhandle the law of contracts to work an obvious justice in these fields, as was done in the late Connecticut case of *Harris v. McPherson*.⁴ There a principal who had offered an agent the exclusive agency to sell his farm for a certain amount within a specified time, was denied the right to revoke simply because the offeree-agent had in good faith entered upon the performance necessary for the acceptance of this offer to a unilateral contract. The relation of Principal and Agent had been created, however, and the question really was the right of the Principal to terminate that relation.

But why a case book of over one thousand pages for a two-hour semester course, such as is Suretyship in most law schools? Foreseeing this objection, the editor explains that it was felt necessary to a proper development of the subject, and in order to afford the instructor considerable choice of material. To further placate the Gods of Review he has followed the innovation of Prof. Wambaugh, in the second edition of his Cases on Agency, by adding an appendix of suggested deletions. These omissions cover about thirty-five per cent. of the cases and pages, or to be exact 115 cases and 361 pages—a fair sized book. It would seem that this material could have been covered so far as necessary in the footnotes. Of course, such a wealth of material has an advantage in

¹ 3 Burr. 1886 (1766).

² 13 Johns. 174 (N. Y. 1816).

³ 131 Mass. 77 (1881).

⁴ 97 Conn. 164, 115 Atl. 723 (1922).

enabling instructors to utilize more local cases than might otherwise be practicable, but both for the student and the practitioner the suggested substitute of annotation would seem much more convenient. From the viewpoint of classroom use, the briefer casebooks, for instance about the size of this book minus the suggested deletions, are decidedly to be preferred. The financial and physical burden imposed upon the student body by the modern over-loaded case-book demands correction by publishers and editors. It is only fair to say that this book is not unique in this respect.

The binding and mechanics of the work are excellent. A copious index adds to its usefulness to practitioner as well as to the student.

On the whole, Professor Arant is to be congratulated upon having presented the best casebook on Suretyship since Ames.

George Jarvis Thompson.

Cornell Law School.

THE UNITED STATES BOARD OF TAX APPEALS PRACTICE AND EVIDENCE. By Charles D. Hamel, Esq., Prentice Hall, Inc., N. Y., 1926. Pp. lxii, 222.

Experience under our previous Income and Excess Profits tax system impressed upon the taxpayers and legislators the new idea that collection of taxes may involve judicial questions, as well as administrative ones.

This idea first found expression in the Revenue Act of 1924 creating the United States Board of Tax Appeals. But experience under the Act of 1924 demonstrated the need for a clear definition of, and an enlargement, of the jurisdiction, powers, duties and membership of the Board. Acting on this experience the Legislature, by Section 1000 of the recent Revenue Act, while continuing the Board as an independent agency of the executive branch of the Government, made many salient changes in the various functions of the Board, increasing its powers and membership, and enlarging its jurisdiction, and, as it is hoped, placing upon a definite and clearly defined basis this very important adjunct to the system of the collection of taxes. Already the Board's docket contains cases involving \$6,000,000 monthly.

The new judicial angle to the tax problem is a matter of prime importance to lawyers and taxpayers throughout the country.

But until the appearance of the book under discussion, there had been little written about the new Board of Tax Appeals, although the little book published in the summer of 1925 by Holmes & Brewster on "Procedure and Practice Before the United States Board of Tax Appeals," is extremely helpful, and the article by Clarence A. Miller, Esq., in 11 American Bar Association Journal 169, contains a good summary of the new features of the legislation creating the Board.

But the book just published by Prentice Hall, Inc., and written by Charles D. Hamel, Esq. (a member of the Board since its inception), is the most complete and authoritative book on the subject. It is written in a very interesting style, which makes it easy to read. Its form is excellent in that it contains a well-outlined Table of Contents showing the subject of each numbered paragraph, a separate list of Board of Tax Appeals Cases, in addition to the list of Court Cases, a generous appendix containing a copy of the entire Revenue

Act of 1926, together with footnotes showing the changes in the various preceding Revenue Acts, a Table of Income Tax Rates, a Table for Computing Federal Estate Tax, Rules of Evidence, Rules of Practice, Forms of Practice, Forms of Bureau Letters and an exhaustive Index.

It is interesting to compare the method of appeal described in Mr. Hamel's book, with that in effect in England between 1842 and 1909. There appeals could be taken to either the General or Special Commissioners. The former, residents of the same locality as the assessed, were unskilled in Income Tax Laws, whereas the latter were trained employees of the Treasury. The General Commissioners were often neighbors, trade or professional rivals, clients or personal friends, members of the same or rival political party or religion. The embarrassments resulting from such hearings were obvious. The appeal would be heard by the General Commissioner unless the taxpayer demanded the hearing before the Special Commissioners. At the hearings the Government's Surveyor, who often knew the details of the case previous to the hearing, would clarify the facts and quote the law from the statutes and cases to the awe of the Commissioners, and to the detriment of the taxpayer. The Commissioners decided that the majority of questions were questions of fact, and as an appeal could only be taken where questions of law were involved, it would generally be impossible to re-open the case. This system of income tax appeals has since been abolished in England, and a modern method of appeals, similar to ours, has been established.

In substance, the book covers its subject thoroughly. It contains Chapters on the History, Procedure, Jurisdiction, the Hearing, Evidence, Procedure After the Hearing, Briefs, Findings of Fact and Opinion, and Appeal from the Board's Decision.

This book should prove not only of great help to lawyers, but also of general interest to taxpayers.

William J. Conlen.

Philadelphia, Pa.

STATEMENT OF OWNERSHIP, MANAGEMENT, CIRCULATION, ETC.

Pursuant to the regulation of the Federal Post Office, herewith is published a Statement of the Ownership, Management, etc., of the UNIVERSITY OF PENNSYLVANIA LAW REVIEW, published at Philadelphia, Pa., revised by the Act of August 24, 1912:

Name of	Post Office Address
Student Editor, Philip Werner Amram,	Philadelphia, Pa.
Business Manager, Lester Lichtenstein,	Philadelphia, Pa.
Treasurer, B. M. Snover,	Philadelphia, Pa.

Owners: (If a corporation, give names and addresses of stockholders, holding 1 per cent. or more of total amount of stock). University of Pennsylvania Law School, Philadelphia, Pa.

Known bondholders, mortgagees, and other security holders, holding 1 per cent. or more of total amount of bonds, mortgages, or other securities. No bonds or mortgages outstanding.

LESTER LICHTENSTEIN,
Business Manager.

Sworn to and subscribed before me this eighth day of October.

B. M. SNOVER,
(Seal) *Notary Public.*
My commission expires April 8, 1929.