

BOOK REVIEWS

CASES ON MORTGAGES, by James Lewis Parks. West Publishing Company, St. Paul, 1926, pp. xiii, 587.

It would be presumptuous for a reviewer to pronounce a casebook satisfactory, or to denounce it as unsuitable, without having had the opportunity to subject it to the acid test of classroom experience. That there has been a steady demand for new collections of cases on the law of mortgages is not open to question. The fact that casebooks long regarded as standard have gone out of print is alone enough to justify the recent appearance of several new efforts in the field. Indeed, long before it became difficult to obtain copies of the old collections, teachers of the subject experienced the trials of attempting to bring old cases up to date by class explanation.

Professor Parks prefaces his volume with the statement that his purpose is "to show the student how American courts are dealing with questions in mortgage law." To this end he presents a selection of cases which is almost entirely new. Those familiar with earlier collections will mark the absence of many of the old leading decisions. English cases are few in number, one or two appearing at intervals by way of brief introduction to particular topics or for purpose of furnishing a contrast to the local view. The compiler appears to have appreciated the fact that, in selecting cases on mortgages, it is difficult to strike a balance between those devoted to historical development and those which present the problems which will confront the student when he is admitted to practice. In view of the tendency to thrust ponderous volumes of cases upon the law teacher for use in a relatively short course, it is distinctly refreshing to note that Professor Parks did not attempt to furnish both an exhaustive historical background and a full discussion of modern problems, which would only have passed the burden of selecting cases to the instructor. Instead, he presents a new approach. Old standard collections gave the historical development of the principles governing mortgages, but necessitated the presenting of present-day applications via the lecture medium. This book stresses accepted principles and current problems. It requires the instructor to supply the major portion of the historical material.

The order of treatment and grouping of the topics is somewhat unusual. Priorities are given a relatively early position in the collection, being selected to precede the material on Rights and Duties of the Parties prior to Foreclosure, Agreements extending Time for Performance, Transfer by Mortgagor and Mortgagee, Discharge, Redemption, Subrogation, Marshalling, and Foreclosure, which follow in the order named. Clogs on the equity of redemption, agreements for collateral advantage, and the right to reform an absolute deed given as security, are grouped in one chapter under the head of Restrictions upon the Right to Redeem. Cases touching upon accounting are not accorded separate treatment, nor dealt with under Foreclosure or Redemption, but are included under Rights and Duties of the Parties Prior to Foreclosure. In selecting cases, no particular stress has been laid upon the decisions of any one jurisdiction, the attempt apparently having been made to gather representative cases on current problems from all of the outstanding courts of last resort in this country. The

footnotes are excellent, citing selected cases, various recent annotations and law review articles in preference to giving a great mass of decisions. A copy of the fifth draft of the Uniform Mortgage Act is included by way of appendix.

First impression seems to indicate that this casebook is a very worthy effort. Those who do not cling to the old and distrust the new will welcome the opportunity to give the collection the teaching tests which will determine its real value.

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A BIBLIOGRAPHY OF EARLY ENGLISH LAW BOOKS. Compiled for the Ames Foundation by Joseph Henry Beale, Royall Professor of Law in Harvard University. Cambridge University Press, Cambridge, 1926, pp. viii, 304.

Many years ago Maitland prophesied that the history of English law would probably be written in America. Although this prophecy has not yet come to pass, it is nevertheless true that the bibliography of English law has been written in this country so far as it has been written at all. Marvin, Wallace, Soule, have been our authorities and guides; now Professor Beale has added another bibliography, and one of a different type, to the slowly growing list.

No better tribute to the memory of James Barr Ames could be made than a scholarly and carefully compiled volume of the early printed books on that early law of England which he was one of the first to explore and make useful to the student. This book will be of use to all students of the law. Skilfully arranged with the matter so put together that a slight knowledge of legal bibliography is all that is necessary in order that anyone may find that which is being sought for, it may very well furnish a foundation stone for the more complete legal bibliographies which will be compiled in the future when a complete examination of all law libraries containing the early printed law has been made.

The portion of the book containing a reproduction of the printer's marks is most interesting, giving an opportunity of comparison with the originals where the originals are at hand, and, where this is not the case, an excellent chance to become acquainted with these quaint devices, which frequently serve as distinguishing marks when other methods of identification fail.

The tabulated list of libraries in which each item is to be found is of very great value. A close examination and comparison of the list proves to be of much interest in that it shows that of the items given there, ninety-three are to be found in the American and not in the English repositories, and ninety-nine are in the English libraries and not in America. On the other hand since Professor Beale has not included a large number of American law libraries in his check list, there may be very many more items to be added to the American side of the list. The Biddle Law Library of the University of Pennsylvania, which does not appear to have been examined by Professor Beale, from his data has four items which are not credited to any English or American library. One could not ask Professor Beale to add a personal examination of all the American Law Libraries to his already very heavy task, but had the librarians been consulted they could doubtless have given him the data without giving him

any trouble in collecting it. Since so many were passed by without examination one may, perhaps, ask why the library of J. P. Morgan, with only two items to its credit, and the libraries of San Francisco County, and the State Library of Albany, New York, were examined, since they have very few items, comparatively speaking, to offer to the student.

Now that the work has been begun it may be hoped that the law librarians of the country may be inspired to make complete bibliographies of the early printed works in their libraries; lists which they may exchange for comparison, and by adding them to this volume of Professor Beale's, compile a fairly complete bibliography of the matter contained in the law libraries of the United States. Could this be done we should all be greatly indebted to Professor Beale for this valuable initiative work.

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EQUITY PLEADING AND PRACTICE. By Walter C. Clephane. The Hornbrook Series, West Publishing Co., St. Paul, 1926, pp. xiv, 605.

In former days when life was far less complex than it is today, the dispensing of justice at the hands of the Chancellor, the Keeper of the King's conscience, was a comparatively simple matter. The difference in procedure, even in those early courts "between the common law and the equity courts was due in no small degree to the difference in training between the King's Common Law Justiciars and those who were called upon to give expression to what has been called the conscience of the sovereign."

The growing tendency on the part of the lawyers to proceed in equity, rather than law, and the effectiveness of the remedy provided in equity courts has greatly increased the equity practice in the United States and Great Britain in the last decade. The importance of a good textbook for students on this important branch of the law cannot be overemphasized. The need for such a book has long been felt among those of us engaged in the teaching of Equity and Equity Pleading.

The book itself is by a man of extraordinary brilliance and the author has been diligent and faithful in his pursuit of the law, and has given to the legal world a number of standard classics on legal subjects.

The book is well suited for the purpose for which it is written, namely, a textbook for undergraduate students in our law schools, especially in the United States. It is authentic and should become the standard textbook for students in Equity Pleading and Practice.

The inclusion at the end of the text of a large number of copies of various forms of bills and pleas, taken from the file of the author, will indeed be helpful to the young practitioner. Then, again, the inclusion of the rules of the practice of the courts of equity of the United States seem to the writer to have been indeed very wise.

The index-digest makes the whole text accessible. The foot-notes have been carefully prepared and the book as a whole is an exceptional well-developed treatise of an important and interesting branch of our jurisprudence.

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STATEMENT OF OWNERSHIP, MANAGEMENT, CIRCULATION, ETC.

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