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### Book Review (reviewing Augustus Peabody Loring, A Trustee's Handbook (1940))

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been the principle that concerted acts of labor organizations will not be interfered with by the court even though substantial injury to other persons may result from those acts, provided that the acts are justified as a means of accomplishing the proper objects of a labor organization.

The author has made a remarkably extensive study of legislation and judicial decisions throughout the United States upon this subject. He should not be criticized for the emphasis which he has placed upon the decisions of the New York courts. It is obvious that labor conflicts and the issues arising from labor relationships would develop at a greater rate of speed in a highly industrial and populous section of the nation. The courts of New York had almost completed a cycle of judicial reasoning upon the subject before the courts of other states were even called upon to consider the first principles of the problem.

It is evident to the author that this problem will not be disposed of successfully by courts alone. The accepted structure of the judiciary is such that it will not have the facilities with which to enter into a rival union controversy with speed and thoroughness. While it is conceivable that courts might be remolded to accomplish the necessary objects, it is more likely that the people of any community will prefer to retain the basic and accepted structure of courts. On the other hand, they will recognize the need for some fair and efficient tribunal to determine the problem without needless loss to the community.

The author's description of the operations of labor boards, including the National Labor Relations Board, is extremely fair. He has not permitted himself to fall under the influence of a substantial prejudice against administrative boards. He has recognized their proper place in accomplishing an object which present American courts cannot attain.

GEORGE MONCHARSH\*

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A *Trustee's Handbook*. By Augustus Peabody Loring. Revised and enlarged by Mayo A. Shattuck. Boston: Little, Brown & Co., 1940. Pp. lxxi, 425. \$5.00.

Mr. Loring, a lawyer and professional trustee of high repute in Boston, issued the first edition of his *Trustee's Handbook* in 1898. Later editions, prepared by the same author, appeared in 1900, 1908, and 1928. Mr. Shattuck, a lawyer and teacher of law in Boston, and editor of the Massachusetts annotations to the Restatement of Trusts, edits the fifth edition of this well-known work, which is substantially fifty per cent larger than the fourth edition.

Mr. Loring's aim in publishing the original volume seems to have been to bring to individual trustees and to beneficiaries the advantages of his experience as a trustee and lawyer. In the preface to the fourth edition he states that the book is "meant to be a handbook for those engaged in the practical administration of trust estates, or for those beneficially interested in them, and not a digest of the law." Corporate trusteeship had not developed to large proportions in 1898. There was a dearth of simple, concise treatment of trust law. Lewin and Perry were, and are, hard reading, rather verbose, and encumbered with a mass of English case law, much of it ancient and not adapted to American conditions. Mr. Loring produced a tiny volume which was clear, readable, and footnoted with all the more important Massachusetts cases and statutes and with

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scattering authorities from other states and from England. It is not surprising that his work became popular, especially in New England.

In the preface to the present edition Mr. Shattuck states that the object of revising the book is to serve the same classes to whom Mr. Loring originally addressed himself. He notes the great increase in trust texts, but expresses the belief that the *Trustee's Handbook* is needed "more than ever before."

In view of the volume and complexity of present trust law, the extent and adequacy of its treatment in other books, and the very limited presentation of it in this handbook, it seems extremely doubtful whether the continuance of Loring's *Handbook* is advantageous for lawyer or layman. Cases, statutes, and articles on trust law are being turned out by the hundred every year. In addition to recently revised editions of Lewin and Perry, there are now available the Restatement, Scott, Griswold, Bogert, and the Hornbook. For condensed, simplified statement, supported by examples, it would seem that the Restatement and the Hornbook are much better guides to the elements of trust law than is the book reviewed. Wherever one turns in this edition of Loring's *Handbook* one finds exceedingly brief treatment, without many necessary qualifications and exceptions, or else no discussion at all. Such scanty fragments cannot fail to be misleading.

For example, on page 76 there appears the statement, "The usual requirement is that the trustee shall file an account once a year." No citation of authority follows. This refers to a court accounting and would lead a trustee or beneficiary to expect that in most states an annual filing of an account in court is required. In Massachusetts such an account is necessary, but only about two-fifths of the states have similar laws. In a few other states court accountings are compulsory biennially or triennially, but in nearly half the states there is no statute or court rule requiring a trustee to file an account in court periodically. In this latter group the trustee accounts in court only when a suit is brought against him or when he voluntarily submits a report to the court.

Again, charitable trusts, including *cy pres*, are discussed in eight pages. This chapter seems to be an addition inserted by Mr. Shattuck. Such limited treatment cannot be of any real value. At page 289 Mr. Shattuck notes that Mr. Loring held the view that *cy pres* was theoretically applied only to charitable trusts, but in practice was used with private trusts. Mr. Shattuck disagrees with this opinion. At this point a contrast of the rules about permitting deviation from the terms of private trusts and the doctrines of *cy pres* would have been pertinent, but it does not appear; nor is it shown that *cy pres* applies to absolute gifts to charity where no trust is involved, or that *cy pres* is not accepted by some states, or that *cy pres* is not applied where the charitable intent of the settlor is deemed "narrow."

Three appendices are added by Mr. Shattuck, covering respectively Compensation, Investment Rules, and Spendthrift Trusts, state by state. At the bottom of each page of these appendices there appears the statement: "Many of the statutory and case references contained in this appendix have been collected from secondary sources and the practitioner is warned to consult his local statutes, cases, court rules and customs." This seems an extraordinary caveat. Is it ethical to take statements of law and citations from trust services or texts and use them without acknowledgment of the source and without verification, even if the statements are condensed or modified? Is such use of the work of others, accompanied by such a caveat, of any real value? Would not

the ordinary trustee or beneficiary prefer to go to the original book in his own library or in a public library?

The reader will be wise to take these caveats seriously. For example, the appendix on compensation omits recent statutory changes in Kansas, Michigan, and North Dakota, and that on Spendthrift Trusts fails to note the reversal of the Alabama rule by statute in 1935.

It may be said that Mr. Shattuck's book gives frequent references to the Restatement of Trusts and to Scott's text, and if used in connection with those books will be helpful. In reply, it may be urged that a reader who has access to the Restatement and to Scott will make more progress by using the table of contents and indices of those two works than by following cross references.

The clear, condensed style of Mr. Loring is continued in this edition. About 3,600 cases are cited, about one third of which are Massachusetts decisions, and these are listed in a table of cases. A table of statutes cited is also given. Massachusetts statutes are cited with fullness, but those of other states apparently only in the appendices on compensation, investments, and spendthrift trusts.

With the utmost of good will toward the editor of this edition, the reviewer must express the opinion that Mr. Shattuck set for himself a task impossible of accomplishment, namely, the preparation of a useful book on trusts limited in size to 381 twelvemo pages of text and appendices.

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