

that "a minimum . . . of eight to ten classroom hours per week for a semester, divided perhaps so that half is given in the first year of law study, and half in the second year, will be found necessary for the subjects covered by the two volumes."⁵ This is the equivalent, in most law schools, of two large courses. Why not call one "Pleading and Procedure," the other "Equity"? Will not the subject matter of its own weight break into two such parts?

The reviewer fears to seem captious; he does not intend to be so. Every strikingly new departure must expect to meet the question: is this something better or just something new? Opinions must always differ; the reviewer frankly records his that Dean Clark has not brought us materially nearer a solution of what may be called "the equity problem." He has either started on a new tack up a blind alley, or simply put old wine into new bottles. This is mixing metaphors with a vengeance; the reviewer apologizes by coining a new aphorism: mixed casebooks breed mixed metaphors.

That the workmanship of the book is first-rate may be taken for granted; Dean Clark is not noted for any other kind of workmanship. The reviewer has used his first volume as an invaluable source of equity materials not elsewhere available. It seems likely that the second volume will prove equally invaluable. Cases have been selected with discrimination; the notes are frankly and blessedly informative. Not infrequently, the gist of some long-winded case is put in a brief paragraph. The editor seems to be approximating what may be the policy of the case book of the future: to include only such portions or aspects of a given case as are of real value for a definite purpose. Note, for example, the enormous amount of information relative to injunctions against crime compressed into some fifteen pages (177-192). Equally admirable for its combined brevity, aptness and completeness, is the treatment of mutuality, including Professor Corbin's valuable note from the Restatement of Contracts. Other instances might be cited.

These numerous and manifest merits will doubtless recommend the book to many who will not wholly subscribe to the theories implicit in its organization. And, who, after all, would care to sponsor theories to which all would subscribe?

PHILIP MECHEM*

Cases and Materials on the Law of Vendor and Purchaser. By Milton Handler. St. Paul: West Publishing Company. 1933. Pp. xix, 950. \$6.00

In the preface the author states, "Only those topics as are susceptible of case analysis have been treated by the case method; doctrines which are settled have been presented in informational text notes." If the book were designed for advanced students of law, for practitioners, for law instructors, or for judges this theory might be sound. They, presumably, have mastered the fundamentals of law and will understand the implications of text statements. This book, however, is a student's first book on conveying. In such a book the theory should not have a place.

First, Mr. Jerome Frank would probably question the assumption that legal doctrines are settled. Though one may reject the extreme view of Mr. Frank one must

⁵ Preface, vi.

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recognize that doctrines which appear settled today may be unsettled tomorrow. The common law has always exhibited an unusual capacity for change, and the signs of 1933 do not indicate that this capacity has been exhausted.

Secondly, even though it be conceded that some doctrines are settled, it does not follow that the method of presentation should depend upon this fact. The goals of the study of law should be the acquisition of a sound philosophy of law, a mastery of the fundamental doctrines of the common law, and of techniques for their application to the problems of modern practice. That a doctrine is settled has little, if any, importance in the task of the law schools in guiding the student in his quest of these goals.

However settled a doctrine may be, the factors involved in the problem, the reasons for the doctrine, and the limitations on it are not necessarily obvious. Problems of future interests seem just as abstruse to students today as they did to students of previous generations, even though many of the problems are settled today. The same appears to be true of doctrines in other portions of the law, such as the rules of *Price v. Neal* and *Lawrence v. Fox*. Moreover, doctrines do not become unimportant when they are settled. A student who has not mastered the fundamental doctrines of the law, even though those doctrines are settled, is not prepared for the practice, and the practitioner who is not thoroughly familiar with the settled doctrines of his jurisdiction cannot safely and wisely advise his clients. For these reasons the theory that unsettled problems should be developed by cases and settled problems by text statements seems unsound.

In the execution of the plan for the book, however, this theory was almost entirely abandoned, except in the part dealing with "Rights in the Land of Another." This subject, if one may judge from the preface and the treatment of the material, was a portion of the law which, though not really a part of Mr. Handler's general topic, could not be entirely omitted from the curriculum of the Columbia University Law School and hence was included in this book. And because Mr. Handler did abandon this theory in the development of the materials directly bearing upon the subject of vendor and purchaser, it is an excellent casebook for the study of that subject. The chapter on Performance of the Contract seems especially good. The notes on the Standard Form of Contract, Title Search, Title Insurance, and the Torrens System are valuable portions of the book. In some particulars the arrangement of the sections does not seem the most effective, but since they can readily be shifted to suit the fancy of the individual instructor this does not seriously detract from the excellence of the book.

But with all these merits the book has certain limitations. In the first place, it is based upon the arbitrary arrangement of the curriculum of the Columbia University Law School. It covers a part only of the subject matters traditionally included in contracts, titles, rights in land and specific performance. It is suitable as a substitute for the standard casebooks on these subjects only when it is used in combination with two other books of the series (Powell, "Possessory Estates"; Jacobs, "Landlord and Tenant") and with a book on procedure which includes the rudiments of specific performance.

Secondly, some important problems of titles and rights in land have not been adequately developed. Estoppel by deed is disposed of by a footnote of citations to standard books on property. One case is allotted for the subject of prescription.

Finally, it is regrettable that the questions in the annotations have not been formu-

lated with the care that is unmistakably evidenced by the substance of the book. No one quarrels with the form of the notes of a lecturer or of a trial judge. They may be couched in the vernacular of Maxwell Street, or of LaSalle Street. One may pardon the form of statements made under the pressure of modern life, as, for example, "Hell and Maria, no — we shot it along," but in a book designed as a model for students one should not find such expressions as the following: "Why a statute of frauds altogether?"¹ "Are they breached by the same acts?"² "Is it possible to draft a clause that will stick which enables the vendor to withdraw for any or no reason?"³ "The interesting question, however, is what the possession, assuming its sufficiency, gives notice of."⁴

In spite of these limitations, however, the book should prove to be of great value not only for instructors of law but also for judges and practitioners confronted with problems of the law of Vendor and Purchaser.

SHELDON TEFFT*

The American Doctrine of Judicial Supremacy (Second edition). By Charles Grove Haines. Berkeley, California: University of California Press. 1932. Pp. xviii, 705. \$6.00.

Too many new editions of valuable works seem to have little justification save to swell the revenues of their publishers. This observation can in no sense apply to Dr. Haines' new edition of a book which since its publication in 1914 has been a standard work in its field. The issues with which the two editions deal in so able and scholarly a fashion are of perennial interest to students of law and political institutions and of vital importance to every citizen and resident of the United States. Much water has run under the bridge since the publication of the first edition. As the author observes in his preface, new material throwing light upon hitherto unexplored phases of the origin and evolution of this peculiarly American doctrine has come to light through the research of scholars, and a national political campaign has been fought with judicial review one of its outstanding issues. This is ample justification, were justification needed, for bringing his work up to date.

The general plan of the present volume is not materially different from the earlier one, but several of the original chapters have been substantially rewritten, and valuable new chapters have been added which illuminate English procedure in relation to the review of colonial acts, the theories and ideas involved in the establishment of the American doctrine of judicial review, the inter-actions of politics and federal constitutional law, and analysis and criticism of the assumptions and premises commonly underlying thinking in relation to judicial review. There is also extremely interesting material regarding the adoption of the theory of judicial review and its practice in varying degrees in certain foreign countries, and the movement in others looking to its reception. In addition, the author has incorporated the substance of several important articles which he has published in recent years in various law reviews.

The book is certain to appeal to readers who are looking for careful and exact infor-

¹ Page 8.

³ Page 294.

² Page 677.

⁴ Page 655.

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