

author's skillful work over many years in fewer words. He has demonstrated industry, analytical power, expository ability, an appreciation of the needs of the profession, and an originality in meeting these needs which deserve the highest praise.

RICHARD R. POWELL\*

\* Professor of Law, Columbia University Law School.

---

Cases on Equity—Jurisdiction and Specific Performance. By Zechariah Chafee, Jr. and Sidney Post Simpson. Cambridge, Massachusetts: Published by the Editors, 1934. 2 vols., pp. xiii, 1619.

A little over thirty years ago, Dean Ames published his casebook on Equity Jurisdiction, on which doubtless most of the present generation of law teachers cut their teeth. The principal volume of the 1904 edition consisted of four chapters, dealing, respectively, with Nature of Equitable Jurisdiction (35 pp.), Specific Performance of Contracts (406 pp.), Bills for an Account (18 pp.), and Specific Reparation and Prevention of Torts (201 pp.). The present volumes are a direct descendant of the first two chapters of that work, expanded to nearly four times the original size. The same general approach is followed, so far as jurisdiction and specific performance is concerned; but there is no material here on equitable relief against torts.

The two volumes contain a most complete collection of principal cases, digested cases, notes, and citations of authorities upon the subject of specific performance. The authors state that over 15,000 decisions are included in one form or another. There is an ample selection of excellent principal cases, well-chosen for teaching purposes, including both modern decisions and English landmarks. Thus, for example, the subject of equitable relief in connection with arbitration and appraisal agreements is amply developed with recent New York decisions under the arbitration law, the pertinent sections of the law being quoted, as well as with earlier English and American decisions on the same topic. But the chief distinction of the volumes is the amazing collection of editorial notes. Thus, in the chapter just referred to, there are notes on contracts to arbitrate at common law, (extending, with case digests, over seven pages), and on arbitration legislation (five pages). In the first fifty pages of the casebook, there are ten notes, commenting upon such topics as *lis pendens*, privity in equity, and actions at law upon equitable decrees. These notes are almost wholly limited to legal material; and are admirable guideposts to the available decisions and law review notes on the topics. The notes go well beyond mere citations of an undigested mass of *accord* and *contra* decisions; they indicate the nature of the cited material by digests, brief or lengthy, and by excerpts, and contain as well, much analysis and comment by the editors. A teacher will obtain more aid from these notes, as I can testify from my own experience, than from even the excellent available texts. In addition to the notes, there are a great number of problem cases, in which facts and citation are given, without the actual decision. Altogether the volumes are indispensable to a teacher and student of this field, whether they are used in the classroom or not. They will further be a very useful tool in a law office.

These scholarly and exhaustive books do suggest a question as to the fundamental purpose of a casebook, and the part it should play in law school instruction. It is quite possible that many an equity teacher may be frightened away from these books by their sheer length, and by an awareness of the long conscientious effort on his part which

will be required to master the vast amount of material contained in them for purposes of classroom presentation. Many of the better casebooks in wide use today consist of a selection of teachable cases, not much greater in number than the customary course requires, with a few annotations, problem cases and the like which do not pretend to exhaust the possibilities of the particular topic under investigation. The teacher's labors of selection are therefore inconsiderable; he can nearly or wholly cover the book. A more important result, satisfactory at least to a good teacher, is that he supplies the gloss to the cases; his students annotate their digests of the principal cases with his observations upon them, or the observations of fellow-students stimulated by his inquiries. Even though the teacher's ideas are a distillation of many juices, some from his own mind, some from his old law instructors, some from the books, the class discussion does take a course and a flavor characteristic of his own peculiar personality and learning. On the other hand, Messrs. Chafee and Simpson have here supplied a very elaborate gloss of their own upon the cases they have selected; and have supplied a good deal more material than can be discussed in the time normally available. The instructor can organize his own course, if he is willing to devote some time and energy to the task of selection. Once he embarks upon it, however, there will not be many instances, at least at first, when he will be able to pull out of the hat in the classroom a rabbit whose ears are not clearly visible to the student who has looked in the direction of the notes. Moreover, all hands, teacher and students, will be called on for far more work, in reading and correlating the material, than in the case of a casebook of the first type. Thus, on the subject of arbitration and appraisal agreements, already used as an example, one leading casebook contains two principal cases, and a quotation of part of one of the statutes, a total of six pages. Another contains three principal cases, a three page extract from one of the statutes, and three considerable annotations, totalling in all thirteen and one-half pages. The present volumes devote seventy pages to the topic, including eleven principal cases, ten excerpts from decisions, ten problem cases, two textual notes, six and one-half pages of quoted statutes, and innumerable citations of law review articles and other decisions. A teacher who selects this casebook flatters his class; and dedicates himself to the task of mastering the legal data that Messrs. Chafee and Simpson have brought together over the years. It is a challenging job of magnificent proportions.

Yet this second type of book, difficult to deal with as it is, must be the one which we really admire and, if we are strong enough, use in the end; provided, of course, that we are satisfied with the general organization of the material. Who will say that a casebook editor should include less than a full measure of the data which he, in his experience, has found necessary to a sound understanding of the particular question? And can law teachers admit that they are unwilling to go down to the roots of a topic, and hence prefer a sketchy selection of sparsely annotated cases to an embarrassingly full presentation of all the useful material?

The final question as to any new casebook is the organization of the material—the topics included and excluded, and their order. Although the second chapter on the powers of courts of equity is a logical introduction to the subject, the problems are much more difficult than those of specific performance; and might therefore be better understood at the end of the course than at the beginning. Now that Vendor and Purchaser seems to be acquiring standing as an independent course, there would be some practical advantage in separating this material definitely from the remainder, perhaps in a separate volume, to be used or not as local needs dictated. Finally, many

of us envisage the integration of specific performance with other equitable remedies, and with other parts of civil procedure in a single course or series of courses. Professor Chafee and Dean Pound of course have other casebooks on equitable relief against torts, which perhaps will be integrated with the present work. Some assurance to that effect would have been welcome, and such a plan might very well have altered somewhat the arrangement of these books. As matters stand at present, it is somewhat difficult as a practical matter to justify the use in such a combined course of a three volume set of over 2,000 pages, when only a part can possibly be discussed in the time ordinarily available for the purpose. This is perhaps the most serious obstacle to the wide use of the books. If they choose to meet it, the editors will place us further in their debt by the preparation of a single volume casebook on equitable remedies, embracing as well as possible the whole field.

The mechanics of the books are excellent. The innovation of illustrations is striking; some one should have thought of it earlier. The indices are far better than those to which we are accustomed; and the typography is first-rate. The books should certainly find a place in every law school library and on every equity teacher's desk, as a major contribution to the literature of the subject.

ROSWELL MAGILL\*

\* Professor of Law, Columbia University School of Law.

---

Restatement of the Conflict of Laws. St. Paul: American Law Institute Publishers, 1935, pp. xli, 814. \$7.50.

Jason was many years in getting the golden fleece. Thus the passage of a mere eleven in the preparation of the Conflicts Restatement is not surprising. For the modern Argonauts have had their adventures, have steered dangerously between Scylla and Charybdis, overpowered dragons and withstood the songs of sirens. Whether they can yoke the two fire-breathing bulls with brazen feet is perhaps a matter of conjecture, But at any rate, Professor Beale and his advisers have at length completed the courageously attempted task of restating the subject of the Conflict of Laws and their work, adopted and promulgated by the American Law Institute, is now offered to the profession.

To dwell on the appalling nature of the task and the industry and thoroughness with which it was accomplished is to state the obvious. The haphazard character of the decisions as a whole, the comparatively recent development of the subject and the lack of an adequate literature combined to make this perhaps the most difficult field in which the Institute has attempted to operate. The painstaking character of the efforts of the reporter and his advisers is indicated by the numerous preliminary drafts which were prepared as well as the many conferences with workers in other fields which took place. It is to be hoped that these efforts will have corresponding benefits in the creation of an influence leading to a greater uniformity of decision in a field of ever increasing importance to our national life.

To enter into a detailed discussion of the various sections would be far beyond the scope of a brief review. It has been said, and probably no one would dispute the truth of the assertion, that the Restatement as a whole bears the impress of the views of the reporter. The introductory chapter and the portions of the work devoted to jurisdiction are perhaps outstanding illustrations of this fact. That it should be true is scarcely a cause for comment; the converse would be more alarming. Nevertheless, the impact of other forces may be noted in some of the modifications which have been incorpo-