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BOOK REVIEWS

CASES AND MATERIALS ON THE LAW OF TRUSTS—by Richard R. Powell.†

In 1932, Professor Powell published a two volume case book on Trusts and Estates, containing 2038 pages of material. This work included not only cases and other material relating to Trusts but also covered the topics of Wills, Future Interests, the Construction of Gifts, Tax Law and some other items, with more or less completeness. It was intended for a combination course to run for perhaps four hours a week throughout the year.

Professor Powell's new book is designed for a much shorter course in a school where Trusts is kept as a separate topic. It contains apparently only 181 main cases. One would expect many more decisions to be given with some degree of fullness in a book which runs beyond 1000 pages. Other case books in this field offer approximately 300 cases. The explanation of the apparent shortage lies principally in the unusually large amount of text, statute, and footnote material which Professor Powell has included. An additional factor of lesser effect is that some cases printed in full are of considerable length, as, for example, the cases on pages 742 and 752 which together cover 16 pages.

The outline of the new book is naturally based on that of the 1932 work. Having analyzed the larger field to his satisfaction in 1932, it was hardly to be expected that Mr. Powell would change his ideas to a great extent in eight years. That portion of the 1932 outline related strictly to trust creation and administration has been retained with minor variations. The sections of the earlier book having to do with Future Interests, Wills and their construction, and Tax Law have been reduced to a marked degree and more closely woven into the strictly trust material. The relation of tax statutes to trust creation, administration and revocation is still stressed to a considerable extent.

The present outline includes five main parts, namely, history, the creation of express trusts, implied trusts, the administration of trusts, and the use of trusts in business as substitutes for corporations, for security, and for the holding and voting of stock. The chapter on distinctions between trusts and other relationships, found in several case books, is omitted entirely, an action which seems to the writer desirable. The scattering of these contrasts throughout a case book at appropriate

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points seems preferable to consolidating them at the beginning. To the reviewer Professor Powell’s outline and organization seem sensible, logical, and well balanced, except that in the opinion of the writer the use of the resulting and constructive trust cases as auxiliary and subsidiary to the express trust material is more satisfactory than emphasizing the importance of these implied trusts by giving them separate chapters.

The historical development and some informational items are treated by statements prepared by the editor or quoted from text books or articles. This method undoubtedly saves time for teacher and student. Sample statutes are quoted in full in connection with each major subject and other legislation is referred to and discussed. It is thus easy to see how different solutions of the various problems have been tried in the various jurisdictions. A fairly large comparative law element is offered in this way. A table of these statutes, arranged by states, appears at the beginning of the book.

References to, and quotations from, the Restatement on Trusts, text books, law review articles and notes, and decisions, are numerous and well selected. The editor shows familiarity with the trust “services” and with trade journals such as Trust Estates Magazine. More than 2,000 cases are referred to or digested in the footnotes.

The book has a detailed table of contents, a table of cases, and is well indexed. The type and paper are excellent.

The treatment of charitable trusts, *cy pres*, and the remedial side of trust law seems somewhat scanty. The emphasis on New York law is rather heavy. About 30% of the 181 leading cases are from the courts of that state.

Professor Powell’s competency in the field of Property and Trusts is well known. Out of the wide experience which he has had as a teacher, student of the sources, reporter for the American Law Institute, and draftsman, he has here collected a rich store of legislative and judicial action and of scholarly comment and criticism. While one can never tell how well balanced and practical a source book is until he has tried it with a class, a limited examination gives the distinct impression that this volume is filled with well-arranged, interesting and valuable material. Its treatment bears the stamp of Professor Powell’s personality and of the Columbia teaching methods. The editor is to be congratulated on the successful completion of another of his many contributions to legal literature.

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