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## Mortgages, Deeds of Trust and Other Security Devices as to Land

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pose of inheritance, whatever may be its status in other places or for other purposes; and (3) the word "children" in death by wrongful act statutes is not limited to *legitimate* children only.<sup>30</sup> The conclusion to be drawn from these two cases is that in the interest of justice, where the law of more than one state is involved the law of the state most favorable to legitimacy should be applied.<sup>31</sup>

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## BOOK REVIEW

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**Mortgages, Deeds of Trust and Other Security Devices as to Land.** By Garrard Glenn. Charlottesville: The Michie Company; and New York: Baker Voorhis & Co., Inc. 1943. 3 vols. Pp. v, 2139. \$30.00.

The time is ripe for a comprehensive text on American Mortgage law. There has been a dearth of scholarly and exhaustive discussion. Jones' large text came out in 1878 and has run through eight editions, the latest available to me being the 1928 edition which was prepared by the editorial staff of the publishers. While it contains a mass of material, there is a scarcity of analysis and thoughtful treatment. Professor Walsh's 1934 text of 357 pages is excellent, but can, of course, not contain a detailed and comprehensive study. Mr. Reeve's fine treatment of Illinois law will not be greatly helpful to lawyers of other states. In Tiffany on Property (3d ed. 1939) about five hundred pages are devoted to Mortgages. These sections are well prepared but incidental to the treatment of real property law in general. Thompson on Real Property also treats Mortgages in his latest twelve volume edition, but not in a manner to satisfy the exacting searcher for truth and authority. Following the example of giving Hamlet without the character of Hamlet, the Law Institute has restated the law of Security without covering mortgages; this, as I understand, for financial reasons.

Thus, the judge or lawyer seeking guidance on a problem of mortgage law has in the past been obliged to look for clues and guides here, there and everywhere, instead of being able to turn to a single, reliable and satisfying treatise from which he might get his bearings.

It is fortunate that Professor Glenn's training and experience have eminently qualified him to prepare this much-needed book. Not only has he taught mortgages with distinction for many years at Columbia and Virginia, but his courses have also included the kindred subjects

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30. See *Middleton v. Luckenback S. S. Co.*, 70 F. (2d) 326 (C. C. A. 2d, 1934) (wrongful death in collision on high seas), commented upon in (1934) 21 VA. L. REV. 120.

31. See *Legitimation of the Issue of Invalid Marriages in the Conflict of Laws*, *loc. cit. supra*, note 26.

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of Equity, Creditor's Rights, Corporations, and Trusts. And furthermore his earlier publications include books on liens, creditor's rights, fraudulent conveyances and liquidation. He was one of the advisors to the reporter who restated the subject of Security for the American Law Institute. In addition Professor Glenn has the great advantage of twenty-six years of practice at the New York bar which enables him to tie the practical sides of legal problems, as well as their theoretical aspects. If Professor Glenn had planned when he began his legal career to prepare himself to write a text on mortgages, he could hardly have chosen activities and experiences more suitable than those which have actually been a part of his life.

Professor Glenn's work may be divided into four large divisions, namely, (1) a brief general outline of the subject; (2) foreclosure and incidental matters; (3) transfers of the interests of the mortgagor and mortgagee; (4) conflicts between the mortgagee and third parties, including the recording acts. The sections and chapters seem arranged with logic and orderliness. The scope of the work is broad, covering not only the topics usually treated under the head of mortgages, but such related matters as federal jurisdiction, bankruptcy, conflict of laws as related to mortgages, and other types of property security, as, for example, the vendor's lien, equitable liens, and equitable charges.

The book does not attempt to be encyclopedic,—to give all possible citations to case and statute law. It does cite about 5,200 leading cases from England and the United States and numerous statutes, as well as law review material. The author evidently realizes the impossibility of citing all authority in a usable text book. He prefers to spend his pages in scholarly discussion and criticism of broad principles and of typical trends in case law and in legislative action, believing that his reader will supplement such material with the digest and the local statute book. This attitude would seem a wise one. To write a book which discussed every doctrine, cited every case, and quoted or digested every statute relating to real property and chattel mortgages and other property security would, on a guess, require twenty large volumes. Few lawyers or libraries could or would buy such an expensive text covering one subject only. Few publishers would dare to attempt to market it.

The author has thought through the problems he discusses. He has independence of judgment and he expresses it. For example, see the material on a mortgagee as a bona fide purchaser on page 207 of Volume I. Professor Glenn advances the argument that a mortgagee in a lien theory state should logically be held to have only an equitable interest and so not be eligible to be regarded as a bona fide purchaser, but he continues thus: "But that is not the law with us. Logic is like many a perfect character, splendid to view, but impossible to live with; and a mortgage, no matter what may be the prevailing theory, would be a useless security unless it can allow for the rule of bona fide purchaser." The quoted matter is also an illustration of the author's lively and interesting style. He refuses to use the dull, threadbare phraseology so common in legal writing.

Professor Glenn shows knowledge of modern mortgage reform movements. He discusses such projects of the National Conference of Commissioners on Uniform State Laws as the Uniform Mortgage Act of 1927, the Model Power of Sale Foreclosure Act, and the Uniform Act Fixing a Basis of Participation by Secured Creditors in Insolvent Estates. He seems to fall into a small error on page 41 of volume I, in stating that the first of these acts has received no adoption, whereas it has been adopted in Minnesota.

The book seems commendable as to its formal details. Dates of cases are given, following citations; the index seems well prepared; and there is a table of cases.

It might at first sight appear that there is a conflict between the author's comments on the local nature of mortgage law in section 8, and his final remarks in section 453 in which he stresses the fundamental principles which underlie mortgage law in all jurisdictions; but on second thought one sees that he considers the general principles as controlling and necessary to an understanding of the subject abstractly or with relation to a particular problem, but still regards local variations as needing constant attention.

The profession owes a debt of gratitude to Professor Glenn for these three volumes in which the topic of property security is so lucidly and ably set forth. Years of painstaking research and discussion have produced a treatise which will take a high place among the products of American scholars. His many friends will join in congratulating the author on the successful conclusion of this fine work.

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