

BOOK REVIEWS

Spendthrift Trusts. By Erwin N. Griswold. New York: Matthew Bender & Co., 1947. Second Edition. Pp. xxxvi, 767. \$12.50.

The first edition of this work appeared in 1936. It carried forward and amplified the treatment of the topic which had been presented in Gray's classic *Restraints on Alienation*,¹ but was in no sense a mere revision of Gray. Since 1936 the subject of spendthrift trusts has been developing with rapidity. The great majority of all important trusts contain spendthrift provision. Several states have adopted statutes which validate but limit these trusts. The new edition incorporates more than a thousand cases which have affected the subject since 1936 and brings the legislative and periodical material up to date. About fifty new sections have been added in order to cover recent developments, a considerable number of these being concerned with construction questions. Notwithstanding the addition of this extensive material, the new work contains only 154 more pages than the 1936 edition. Dean Griswold is a master of condensed statement. He wastes no words in elaboration or repetition.

The outline of the subject in chapters and sections is substantially the same as in the first edition. The important related subject of restraints on the alienation of legal interests and of interests under insurance policies are again discussed fully, as are discretionary, support, protective, and blended trusts, and the termination of spendthrift trusts.

When Dean Griswold's first edition was published most American courts and legislatures had taken the position that spendthrift trusts were valid, although many states had placed limitations on their effectiveness. The arguments of social and economic policy against these trusts had failed in the United States, except in a very small group of states. The trend in recent years has been toward judicial and legislative limitation on restraint clauses and in this movement the arguments which failed to outlaw spendthrift trusts have had their effect. Dean Griswold is in favor of modifying the early doctrine of the Massachusetts and Pennsylvania decisions which were based on the nineteenth-century individualistic doctrine that a property owner could dispose of his property as he liked. He urges that the beneficiary be protected in general as to a relatively small income only and that creditors with specially strong equities should not be affected by spendthrift clauses. These views he has embodied in a model statute which has been adopted in Louisiana and Texas. His second edition suggests a continuation of statutory limitation, but also argues² that, in states where there is no statute and none can be obtained, the courts limit spendthrift trusts in accordance with their ideas of public policy. With Dean Griswold's view that the law as to the validity and limitations on spendthrift trusts should be codified the writer finds himself in agreement, but the argument that courts should, after decisions have appeared validating such trusts, proceed to attach such exceptions from time to time as appeal to the views of the judges with regard to public policy, seems to the reviewer unsound. Uncertainty

¹ First edition 1885, second edition 1895.

² Sec. 556.1.

and conflict would result from such a course. It is better to get a declaration from the legislatures as to the entire subject than to allow the courts to treat it piecemeal.

Dean Griswold's historical analysis of the subject by states is desirable, due to the great variety of local rules and because of numerous changes by statute in many states. The book is well equipped with tables of cases and statutes, a good index, and a small form section. Its mechanics and substance reflect the good judgment, thoroughness, and wide knowledge of the law which are well-known characteristics of the author.

The only relevant problem not answered by this excellent work is how the dean of a great and enormous law school ever found time to complete such a scholarly treatise.

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Guide to National Labor Relations Act. By B. Fain Tucker. Chicago: Commerce Clearing House, Inc., 1947. Pp. 320. \$3.00.

In a simple and terse way this volume digests the law of collective bargaining as it has developed under the guidance of the National Labor Relations Board since its inception. This dispassionate and objective summary of the Board and the decisions of the courts under the National Labor Relations Act came at a time when there was a vigorous campaign in Congress to overhaul the labor laws of the country. Although there is no attempt to evaluate critically the work of the Board or subject its decisions or the decisions of the courts to analysis, the content of the book reflects the outstanding and constructive contribution made by the Board to sound labor-management relations in this country.

Apart from its success in condensation, the book is an achievement in organization. It is divided into two parts. The first part is concerned with representation proceedings, "R" cases; the second part with complaint proceedings, "C" cases. The relevant provisions of the statute are reviewed and reference is made to the important decisions of the Board and of the courts. While the book is designed primarily for the practitioner who is uninitiated in the terminology, the procedure, and the vast literature developed under the act, it is written in language of the layman and should be most useful to the non-lawyer representatives of both management and labor.

My only criticism is that the first part of the book, devoted to representation proceedings, organizes the material around the numerous and now standardized defenses that may be asserted against a representation petition. This plan facilitates the use of the book by employers and rival unions and serves admirably as a sort of formidable check list of defenses from which the opposing party may assemble his arguments. The limitations of each defense are carefully stated and defined. While in the course of the discussion of these defenses there is a full statement of the general principles of labor relations developed by the Board and courts, the division of the discussion according to the defenses brings about a piecemeal presentation of these principles. The result is to make the book less valuable to those who seek the positive aid of the Board by a representation petition. Despite this weakness, the book succeeds in its objective, that of being a guide to the National Labor Relations Act.

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