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BOOK REVIEWS

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Statute Law Making. By Chester Lloyd Jones. Boston Book Company. pp. 327.

It has been asserted with some degree of frequency that the Courts are standing in the path of economic progress and that, by virtue of usurped functions of constitutional construction the will of the people is nullified. This charge generally follows when a Court has found it necessary to set aside some poorly drafted statute, embodying a popular sentiment or theory. The failure of the statute to attain the desired end is attributed to the extra conservatism of the Courts, and the advocates of the measure probably align themselves with the adherents of judicial recall.

It is, therefore, little less than a public service for a writer to point out the real reason for the failure of much modern legislation to satisfy the expectations of its advocates, either in receiving the approval of the Courts or in practical operation. The author points out an undisputed fact in observing that American legislation furnishes many examples of laws which are weak or altogether powerless, and he places the responsibility therefor on the hurried and unscientific consideration accorded to a bill in its passage through the legislature.

Before entering upon a discussion of the technical requirements of a statute in the making, the author considers some of the underlying reasons for ineffective legislative work. He concludes that the manifest tendency to further limit the powers of the legislatures by constitutional restrictions is not to be supported. He believes that with the growth of complex social relations, the harm which may be done by hasty legislation increases, but the harm which may be done by hard and fast rules which cut down the power of legal relief grows quite as rapidly. The author places needed emphasis on the fact that there are but few rules of universal application and for that reason alone it is to be hoped that our State Constitutions may in the near future become the "frames" which they were in some commonwealths a century ago. The organic law of Oklahoma serves as an illustration of the carrying of constitutional details and legislative prohibitions to an extreme length.

The main portion of the book is devoted to a technical and stimulating discussion of the requirements of effective bill drafting, and contains numerous examples of constructions that have been approved or disapproved by the Courts. Numerous authorities are cited in this connection, supporting the conclusions reached.

This book should prove exceedingly profitable reading to many ambitious legislators who are undoubtedly interested in the proper method of placing their constituents' ideas in legal form. Incidentally, the author entertains a not altogether uncommon belief, that the majority of lawmakers might devote more time than they do to this not unimportant branch of their duty.

P. R. B.

The Law of Quasi Contract. By Frederic Campbell Woodward. Boston. Little, Brown & Co. 1913. pp. lxvii, 498.

This is a very satisfactory book on a subject that is not yet well understood by the profession. The only previous treatise is Keener's, published some twenty years ago. No doubt that work has had an extremely illuminating effect, but its authority may well be bolstered up by the additional work of another man. Mr. Woodward's work affords this support. He is in substantial agreement with the opinions of Keener, though he shows independence and originality. Keener's work did not fully explain the nature of quasi-contract and define its place in the scheme of obligations. Woodward makes some further progress in that direction.

It is impracticable to treat in one volume all of those obligations that are quasi-contractual in their nature—for example, judgments, the law of infancy, remedies in equity. Even in segregating a new logical legal field under a new name, much respect must be paid to historical development. Mr. Woodward limits the field of his undertaking with skill, restricting it to legal remedies in cases of unjust enrichment. His subdivision of this subject under the three heads of benefits conferred "in misreliance on a right or duty", "through a dutiful intervention in another's affairs", and "under constraint", seems based on logic

Some experience with it seems necessary before passing on its practical convenience.

The author has a doubt as to whether the remedy by restitution in cases of breach of contract by defendant and in cases of tort is really quasi-contractual. Nevertheless, the historical development of those subjects requires their inclusion and justifies him in treating them under an independent heading. It seems regrettable that he saw fit to express another doubt as to the correctness of *Moses v. Macferlan,* and that he has aligned himself squarely against *Britton v. Turner.* But his selection and discussion of leading cases are uniformly good, in particular *Price v. Neal.*

A. L. C.