

*Cases on the Law of Property. Volume II. Introduction to the Law of Real Property—Rights in Land.* By Harry A. Bigelow. (American Case-Book Series.) St. Paul, West Publishing Co. 1919. pp. ix, 88; xviii, 741.

This case-book, the last to be published of the five "American Case-Books on Property," covers, in the main, the same ground covered by the second volume of the late Professor Gray's *Cases on Property*. It deals with the subjects of Air, Land, Streams, Surface and Underground Waters, Profits, Easements, Licenses, Covenants and Agreements running with the Land, Rents, and Public Rights. In addition are two subjects included in Gray's first volume, the Introduction to the Law of Real Property and Waste. In the judgment of the reviewer the case-book amply fulfills the strict requirements recently set forth by Professor Wormser (28 YALE LAW JOURNAL, 205) and in addition is of especial interest because of two things, the treatment of the historical introduction or background of the subject of Real Property and the use of the Hohfeldian analysis and terminology.

Professor Wormser not only set a high standard of editorial preparation for a case-book, but also urged that no case-book should be prepared for a subject already adequately covered. But another series of property case-books was needed in view of the developments in the law since the publication of Gray's *Cases*. Gray prepared the plan, which others are in the main following. It needs, however, but an examination of such a subject as Waters, adequately covered by Bigelow, to show how dangerous it is to rely upon Gray for a complete view of the modern law, particularly in American jurisdictions. In fact one of the great advantages of this work is that without slighting the English authorities, there are given throughout the most recent American cases.

We can hardly quarrel with Professor Bigelow's selection unless it be on the side of overcompleteness. In accordance with the custom of this series, the notes are so extensive as to make the work valuable even to the practicing lawyer. It is hardly a defect, however, to have a fullness of material; though the instructor must make his own selection rather than rely solely on that of the editor, it is obviously a gain to be certain that the material made available does not contain serious omissions.

But besides supplying an adequate collection of cases upon a subject where such collection was needed, Professor Bigelow has added original features. In the third volume of this series, Professor Aigler had urged that it was impossible to teach the historical development of real property law by the use of a few cases and much ancient secondary material as attempted by Gray. The solution here offered is a frank abandonment of the case method and the substitution of a short treatise covering this history.

Now every teacher of Property will have his own ideas concerning the proper method of approach to real property law. Certainly, however, there is much to be said for Professor Bigelow's plan. Littleton's *Tenures* means little to the beginning law student who has yet to connect the Statutes of Uses with the modern warranty deed. Indeed we may say, why the "Introduction" at all in a case-book? Cases are studied primarily to train the student in capacity to acquaint himself with the living law, not to teach him history. Throughout the study of Property, and particularly the subjects covered by the next volume of this series, Professor Aigler's *Cases on Titles*, the practical and present day as well as historical aspects of disseizin, grants; estates, uses, and so on are shown. Why should these subjects be fleetingly touched in the classroom in a preliminary historical survey?

This does not mean that Professor Bigelow's little treatise is not of value. An historical survey of a difficult subject, done simply and clearly but yet briefly, cannot fail to be of great advantage to the student. Nor does it mean that the historical background is not necessary to all legal study, and in par-

ticular to the study of real property law. It is simply a question of means and methods. Mature law students should be expected to master their historical treatises by themselves and thus leave the classroom for the analysis and discussion of decided cases, particularly as these cases will themselves reflect and illustrate the historical background. After all, this portion of the work is a textbook and hence its use is properly as collateral reading.

Professor Bigelow's own idea is that this "Introduction" may more profitably be used in connection with Professor Aigler's *Cases on Titles*, for the first year property course. But it may be questioned whether the traditional plan is not preferable since the student first studies the easier cases on the subject here called "Rights in Land"—the defining of the point where the privileges of ownership cease and the rights of the neighbor commence—rather than the more difficult subjects of estates and deeds.

As the reviewer sees it, the most commendable feature of the book is the editor's use of the exact terminology set forth by Professor Hohfeld in his "Fundamental Legal Conceptions." Nowhere is the need of exact analysis and discriminating use of terms greater than in this subject,—the word "property" itself being a snare for the unwary. While Professor Bigelow's employment of the fundamental legal conceptions is disclosed most in a certain caution in expression, yet this itself is a guarantee of the care he has used in the choice of terms and insures against careless and misleading expression. In this connection he has an interesting and apposite suggestion that the conventional divisions of the subject follow a distinction between the legal relations considered. Thus he suggests that the casebook on *Titles* deals with "powers" and "immunities," while this book deals with "rights." But it would seem that he errs in failing to emphasize the importance of the "privilege" relation, for every case which decides against a right of action for one property owner thereby holds that another property owner has a "privilege." In fact he might have substituted for the less exact expression *Rights in Land*, the title *Rights and Privileges of Ownership*.

Nevertheless, the care taken in the use of terms is the final demonstration of the care with which the entire volume has been prepared.

CHARLES E. CLARK

*The Conflict of Laws Relating to Bills and Notes, Preceded by a Comparative Study of the Law of Bills and Notes.* By Ernest G. Lorenzen. New Haven, Yale University Press. 1919. pp. 337.

Professor Lorenzen's book is a timely and valuable contribution to the literature of bills and notes and to that of the conflict of laws. Its value and its interest lie equally in the materials collected, the method employed, and the purpose and conclusions of the author.

The first part of the book contains a concise study of the internal law of local bills of exchange of the more important European countries. The study is made from the standpoint of Anglo-American law, similarities being merely indicated, variations dealt with at some length. The survey includes of course the N. I. L., the Bills of Exchange Act, and the Hague Uniform Law of Bills of Exchange. The second part is made up of a very careful analysis and comparison of the conflict of laws rules now in force in England, the United States, and the major countries of Europe and South America on those bills and notes which have gotten into international or interstate commerce. The rules proposed by the Hague Convention for uniform adoption are also examined, together with the views of the leading jurists, past and present; and the author makes in each case a carefully weighed recommendation for