

BOOK REVIEWS

Equity Jurisprudence. (2 Vols.) By Fred F. Lawrence. Mathew Bender & Company, Albany, New York. 1929.

This work purports to be a treatise upon the entire field of equity. The point of view of the author is the traditional one—namely that equity is in itself a distinct and unified branch of jurisprudence. The method which the author has employed in the treatment of his subject is likewise the traditional one. Notwithstanding, he conceives of himself as a pioneer in this field. His notion is that equity has been treated too much as the sum of the jurisdictional factors of the Chancery courts, the growth of which has been outlined largely by the shortcomings of the common law. He insists that equity has been “viewed too much in the light of a historical accident, a congeries or catalogue of maxims and standards of conduct for tribunals of a certain type.” His thesis is that “equity is far more than a heritage of the past” and that “law schools should accord to it the position of dignity in the science of jurisprudence to which it is fairly entitled.” After the announcement of these views in his preface, the author proceeds to develop and expound his subject in the same manner that has been employed by the majority of scholars in his field in the past.

It seems worth suggesting that the point of view of which the author complains is the viewpoint of departure for modern thinkers in this field. It seems to be gaining ground that “equity” had been treated too much as a unified branch of jurisprudence and that instead of attempting to regard it as a separate and independent “system” of law it should be treated together with the materials of the common law pertaining to the various subjects involved.

So far as a critical appraisal of the author’s work is concerned there is not a great deal to be said. This reviewer makes no pretense whatever to having examined closely the entire contents of these two substantial volumes. Certain sections have been read rather carefully and the entire work has been scanned in a cursory manner. Two or three thoughts will be passed on for what they are worth. It seems that the author has made no serious attempt to treat any part of his subject matter exhaustively. The work is clearly of an elementary nature. The dogmas of the subject are presented, frequently in the language and formulae of the courts. Most of the citations are to modern American cases and annotations. By reason of the elementary nature of the treatment many of the chapters appear to be somewhat inadequate. This no doubt is a necessary defect due to the point of view which the author expounds. One could hardly expect a complete or adequate treatment of the law of fraudulent conveyances, for example, in a work of this kind. The historical background of this phase of the law is almost entirely omitted. Many of its most difficult problems are treated in a superficial manner as for instance the position of prior and subsequent creditors of the grantor. This matter is disposed of in

one short paragraph of six sentences. Another illustration of the same inadequacy is the chapter on judgments consisting of twenty-two pages of text. *Res Judicata* commands one paragraph of one sentence.

The author reveals himself a man of rather wide learning in his subject. He is familiar with a good portion of the learned literature on equity. Although there is a marked paucity of citations to this literature, there are occasional references to the writings of Ames, Maitland, Pomroy, Cook, and others.

In the estimation of this reviewer this work is not nearly so valuable as Clark's small handbook nor can it be compared with Pomroy's extensive work on the subject. On the other hand it is by no means a futile effort. The author's obvious purpose was to present to the practicing profession what he believes to be a practical and accurate statement of what "equity" is. This purpose is perhaps attained in a reasonably satisfactory way. The work would no doubt be valuable in most law offices for handy and quick reference. It has a complete table of contents, a very usable index and 130 pages devoted to a table of cases.

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Handbook of the Law of Code Pleading. By Charles E. Clark.
West Publishing Company, 1928.

That this is the most valuable text on the subject of Code Pleading is obvious. The book deserves higher praise than that, in fact, because previous efforts along the same line have been quite perfunctory. Dean Clark has made a distinct contribution on the subject, and at the same time has produced a most usable book. Although the book is small in its proportions, it covers the ground thoroughly, and Indiana Lawyers will find a large number of Indiana cases cited. It is the reviewer's opinion, based both on experience with use of the book in practice and teaching, that a lawyer in a Code state who is actively engaged in the trial of cases can not afford to be without its assistance. There is an informed, mature, intelligent and scholarly discussion of the principles of Code Pleading, and the cases decided under the Code. That is altogether too rare an attribute of most legal textbooks. Too often the legal text book is just another digest in disguise.

The reviewer is far from convinced that all of Dean Clark's theories are sound and workable. Primarily it is doubted if his definition of the Code "cause of action" can be sustained as a proper interpretation of the Code, certainly however it is an arguable point, and it will be found that the argument is stimulating, and has not influenced the discussion and statements as to what the cases decide. It is recommended most highly to the bench and bar of the state.

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