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Book Reviews

THE PERMANENT COURT OF INTERNATIONAL JUSTICE: A TREATISE. BY MANLEY O. HUDSON. NEW YORK: THE MACMILLAN COMPANY, 1934. pp. xxvii, 731.

At this writing the author of this work has been nominated by some 34 national Groups, including the American Group, of the Permanent Court of Arbitration as a member of the Permanent Court of International Justice, the subject of this study.

Professor Hudson's name has been so much associated with writings on the Permanent Court of International Justice that the present fundamental work could not, it seems, have been written by anyone else. He is the recognized authority on this Court. A large number of volumes, collections, articles and essays have come from his pen. He has given numerous lectures and addresses on the Court. He has participated in many of the events that have shaped its procedure and development. He has been closely associated with its work. On the other hand, his is such an exceptionally varied experience in present day international legal work that it gives him the intimate and at the same time rich background for this thorough and complete study of the history, procedure, practice, and law of the Court.

The work is strictly legal, the political aspects of the Court's work being outside its scope. It combines historical, analytical and functional interpretation.

PART I presents the precursors of the Permanent Court of International Justice: the Permanent Court of Arbitration organized by the Hague Conventions of 1899 and 1907; the International Commissions of Inquiry; the Central American Court of Justice; and the proposed International Prize Court and Court of Arbitral Justice. The discussion is necessarily brief and presupposes the reader's familiarity with the subjects, with the exception of the work of the Central American Court of Justice which remained generally unknown in view especially of the inaccessibility of documentation. This part of the work is useful in presenting data and ideas that may serve as commentary upon the Permanent Court.

PART II deals with the history of the establishment of the Court in 1920 and 1921 and the subsequent revision of its Statute. This is invaluable especially with regard to the drafting of the Statute of the Court. The author sees always the importance of the history of terms used and meticulously searches for each detail. A chapter in this Part concerns the question of participation in the Court of States not members of the League of Nations and particularly efforts to effectuate the participation of the United States. The author's discussion of this matter is eminently sane. He rightly points out that the importance of American participation has been exaggerated. This would not have added much to the Court's acquired prestige; and since at no time has the United States proposed to become a party to the Optional Clause, the issue practically is merely participation in maintaining the Court. The exaggeration is due to the hope of the signatory States that American participation "would lead the United States to play a larger role in international cooperation" and to distrust in the United States "of the purposes which it [the Court] might be made to serve" as "membership to the Court appeared as a substitute for membership in the League".

The Organization of the Court forms the subject of PART III with chapters on the Election of Members of the Court, the Rules of the Court, the Registry, the Finances of the Court, etc. Chapters 11 and 16 are interesting in giving a live picture of the election of members of the Court and of problems of organization with bio-

graphical notes of the judges, remarks on the system of nomination and election, attendance of the judges at the sessions of the Court, etc. In all those matters the author expresses his opinions clearly and critically.

The remaining three parts of the work concern the Jurisdiction of the Court, its procedure and practice and the application of law by the Court. They form the most important part of the work. In addition to displaying the same qualities of extraordinarily complete documentation, clarity of style and precision, they are a mine of information and careful interpretation of legal texts and adjudicated cases before the Court which should be of inestimable value to jurists preparing cases for the World Court and to students of international law in general. To those familiar with the author's previous work, the present study will readily appear as his major opus, for his constant objective of completeness and the consequent necessity of compression and brevity of expression is joined with explicitness of opinion, frank criticism and a creative effort. Continental readers used to works of vast generalities and doctrinal writing have had in the past a certain impatience with American works. It is believed this study will prove to them that the American method in the hands of a master is more reliable and certainly one of creative nature.

The last two chapters of PART VI, "The Law Applicable by the Court" and "International Engagements and their Interpretation by the Court", are of especial value. One would have wished this part less compressed and with a fuller appraisal of the significance of this aspect of the work of the Court on international law.

Appendices give the instruments relating to the Constitution, Procedure and Administration of the Court and information concerning the Court, its members, its sessions, and its publications. There is a list of cases and an Index.

New York City

STEPHEN P. LADAS

GUIDE TO FEDERAL APPELLATE PROCEDURE. BY NATHAN APRIL. NEW YORK: PRENTICE-HALL, INC., 1936. pp. xxx, 522.

Carrying the approbation of the senior circuit judge of the Second Circuit in the foreword, this book is bound to find approval among the members of the bar. It is a practical guide for the lawyer who finds himself about to take an appeal to some one of the United States courts. Written with the terseness characteristic of many English legal texts, it will—for the time at least—prove itself useful to the regular practitioner in this field and invaluable to counsel who engages therein only occasionally. The profession needs books of this practical type, designed to be helpful in the work-a-day practice of law. They are scarcer than essays or treatises on jurisprudential phases of various topics, or massive digests of appellate decisions which serve as a starting point from which one may reach his own conclusions.

Following the chronological order of the steps and problems of a federal appeal, the chapters deal with preliminary stay, what is reviewable and where, time within which to appeal, taking and perfecting the same, supersedeas, framing and printing and filing of the record, miscellaneous interlocutory motions, scope of review, briefs, arguments, disposition and mandate. Reviews in the Supreme Court and in the circuit courts of appeals are handled under the above topics rather than by entirely separate treatment for each court. Pertinent statutes and rules are set forth in the text and these are generally followed by succinct discussion of the actual practice thereunder. The rules of the Second Circuit are used as illustrative throughout but reference to those of the other circuits is frequently made and the complete rules of all the circuits are set forth in the latter part of the book.

The author's concise tone is more fitting to the treatment of the problems of federal appellate practice than to the matters of jurisdiction which are necessarily involved. The elucidation of the latter does not purport to be detailed, but for the length of the work it is remarkably accurate and seldom misleading. However, the author contents himself with the statement that the Supreme Court does not have jurisdiction to review the "merely declaratory judgment" of a state court, citing *Liberty Warehouse Co. v. Burley Tobacco Growers' Cooperative Marketing Association*.¹ It seems an oversight to fail to mention *Nashville, C. & St. L. Ry. v. Wallace*² in this connection as well as the problems which will arise under the new Federal Declaratory Judgment Law.³ This is the author's worst offense. There are a few passages which, in the reviewer's opinion, lack clarity but they are comparatively insignificant. The very comprehensive and excellent collection of useable forms, by itself, would justify the book.

There may be some question as to the probable period of usefulness of the work. Sometime in the fall of 1937, or possibly a little later, we may expect that the Supreme Court will announce the uniform rules in actions at law and probably provisions for the union of law and equity in the United States courts. These changes will affect appellate procedure at least in a formal and minor manner. Indeed it is conceivable that the new rules themselves may alter the appellate practice materially or directly lead to complete revision thereof. But until the coming rules are in effect, and possibly for a considerable time thereafter, Mr. April's work will enjoy a merited popularity in the profession.

University of Missouri Law School

THOMAS E. ATKINSON

RESTATEMENT OF THE LAW OF TRUSTS. BY THE AMERICAN LAW INSTITUTE. ST. PAUL: AMERICAN LAW INSTITUTE PUBLISHERS, 1935. pp. vii, 807; vii, 1496.

The Restatement of the Law of Trusts is the fifth in the series of Restatements of the law by the American Law Institute. The earlier Restatements are the law of Contracts, 1932; of Agency, 1933; of Torts, 1934; and of Conflict of Laws, 1935.

The personnel of the Committee on Trusts of the Institute, by whom or under whose direct supervision the Restatement was prepared, assures the authoritativeness of the work. The Reporter was Austin W. Scott who has been a member of the faculty of the Harvard Law School since 1910, and he was assisted by a number of distinguished lawyers and teachers of law,¹ so that the Restatement of this subject represents the best current American composite thought on the subject.

1. 276 U. S. 71 (1928).

2. 288 U. S. 249 (1933).

3. 49 STAT. 1027 (1935), 28 U. S. C. A. § 400.

1. Associated with Mr. Scott in the capacity of advisers were Ralph J. Baker of the Harvard Law School, George C. Bogert of the University of Chicago Law School, Elliott E. Cheatham of the Columbia University Law School, Robert G. Dodge of the Boston Bar, Mansfield Ferry of the New York City Bar, Everett Fraser of the University of Minnesota, Erwin N. Griswold of the Harvard Law School, David N. Kirby of the St. Louis Bar, W. Foster Reeve III of the University of Pennsylvania, War-

ren A. Seavey and Edward S. Thurston of the Harvard Law School, and Harrison Tweed of the New York Bar. The committee also had the advice of the late George P. Costigan, Jr., of the University of California School of Jurisprudence, who died November 18, 1934, and of the Honorable Julian W. Mack of the United States Circuit Court, New York City. In addition to these men whose names are associated definitely with the Restatement, the Reporter and his Advisers throughout the course of preparation of this work, which has covered a period of eight years, 1927-35, have consulted frequently and freely with practicing lawyers and trust men and others interested in the law of trusts.

The Restatement is an attempt to present "an orderly statement of the general common law (of trusts) of the United States, including in that term not only the law developed solely by judicial decision, but also the law that has grown from the application by the courts of statutes that have been generally enacted and have been in force for many years." The object of the Institute, it is stated in the general Introduction, is accomplished in so far as the legal profession accepts the Restatement as *prima facie* a correct statement of the general law of the United States. The extent to which lawyers are citing the Restatement in their briefs, and judges, in their opinions indicates that the legal profession is accepting it as a correct statement of the general law of trusts of the United States.

Since the Restatement is a statement of the *general* law of trusts of the United States, it cannot cover local statutory or decisional variations from the general law. Consequently, the Restatement does not cite authorities for its statements. This apparent defect in the work, so far as the courthouse or classroom use of it in any particular jurisdiction is concerned, would, and no doubt in time will be remedied by the publication of a series of state annotations which will give the pertinent local decisions and statutes in relation to each section of the Restatement.

Excluded from the Restatement of the Law of Trusts is any discussion of the subject of Constructive Trusts. The subject of Constructive Trusts is to be covered in the Restatement of Restitution and Unjust Enrichment.

Aside from a preliminary chapter on definitions and distinctions, the law of trusts is developed under 11 heads as follows: The creation of a trust, the trust property, the trustee, the beneficiary, transfer of the interest to the beneficiary, the administration of the trust, liabilities *to* third persons, liabilities *of* third persons, the termination and modification of the trust, charitable trusts, and resulting trusts. The physical arrangement and presentation of the subject matter make the Restatement especially attractive to the general reader and to the student alike, and the excellent 88-page index, which is Mr. Erwin N. Griswold's special contribution, makes the Restatement easily usable by the busy lawyer and judge.

Each of the 12 chapters is broken down into topics. For example, the chapter on the administration of the trust is broken down into these 11 topics: General principles, duties of the trustee, powers of the trustee, remedies of the beneficiary and liabilities of the trustee, investment of the trust funds, successive beneficiaries, compensation of the trustee, indemnity of the trustee for expenses, liabilities of the beneficiaries, contribution or indemnity from co-trustee, and instructions and accounting. Each topic, in turn, is broken down into sections. The topic, the duties of the trust, is broken down into 17 sections as follows: Duty to administer the trust, of loyalty, not to delegate, to keep and render accounts, to furnish information, to exercise reasonable care and skill, to take and keep control, to preserve trust property, to enforce claims, to defend actions, to keep trust property separate, with respect to bank deposits, to make the trust property productive, to pay income to beneficiary, to deal impartially with beneficiaries, with respect to co-trustee, and with respect to person holding power of control.

Each section contains first the statement of a general principle of the law of trusts. The statement of the general principle is followed by series of lettered and side-headed comments on that principle. Each comment, where occasion demands, is followed by a simple illustration. For instance, in the chapter on the termination and modification of the trust, under the section, revocation of trust by settlor, it is stated as a general principle of the law of trusts that the settlor has power to revoke the trust if and to the extent that by the terms of the trust he reserved such power and (except as stated in two other cited sections) the settlor cannot revoke the trust

if by the terms of the trust he did not reserve a power of revocation. This general statement is followed by 17 separately lettered and paragraphed comments in which the general principle is applied to different states of facts. Under only one of these comments, however, was it thought necessary to give illustrations. Under other sections of the Restatement, there is an illustration of practically every comment.

This arrangement, as would be expected, means a considerable amount of repetition, all of which, however, makes for a clearer and more accurate understanding of the subject matter. The principle of law, which when stated as a general principle is undisputed, is presented in blackface type. If the reader fails to catch the full significance of the principle thus broadly stated, he goes on into the comments where its meaning is shown under several varying sets of facts. If it is still unclear to him, he passes on to the illustrations and sees instances of the practical application of the principle. Thus the principle, its meaning, and its practical application become clear to him. This repetition, varied as it is, keeps the reading matter from becoming tedious, and absence of citations of and quotations from conflicting authorities keeps it from being confusing to the reader.

The cross references at the end of the comments under each section, together with the splendid index, make it easy quickly to make a complete study, so far as the Restatement goes, of any topic of the law of trusts under inquiry by the busy lawyer or judge or trust man.

Let us pass now from a purely objective view of the physical or mechanical make-up of the Restatement. Important as this is from a practical viewpoint it is not the main thing. Let us pass to a consideration of the subject matter itself. The following are some of the points going to the substance of the Restatement which impress one reviewing the Restatement as a whole: The simplicity of terminology, the practical viewpoint taken, no attempt to answer all the questions of the law of trusts, the inconsistencies of the law of trusts admitted, the up-to-dateness of the topics covered, the law of trusts as it applies to banks and trust companies dealt with in the law of trusts, and the presentation of the trust as a complete though not finished system.

The simplicity of the terminology throughout the trust is praiseworthy indeed. The text says what it means in plain English. There is a noticeable lack of Latinisms. Why, the beneficiary is referred to as the beneficiary and not as the *cestui que trust*. The sentences are short and yet complete. There is a delightful absence of pronouns that leave confusion as to what they refer to—of “it’s” for instance, without the reader’s knowing for sure what “it” refers to and of “which’s” and “that’s” without his being clear what they refer to. The consequence of this simplicity and clarity of style is that, even though the Restatement is, in the nature of things, a highly technical legal treatise, it is nevertheless readable to and understandable by a layman who is interested in trust subjects. As for the lawyer or trust man, he actually finds it easy and interesting general professional literature.

The draftsman of the Restatement and his advisers have developed the subject from a notably practical viewpoint. They have treated the trust, not as a dry legal doctrine, but as a living, workable device in the everyday life of the American family and American business enterprise. In their introductory note they speak of the trust as one of “several judicial devices whereby one person is enabled to deal with property for the benefit of another person.” They speak of the trust as a peculiar product of the Anglo-American system that may be used “not only for family settlements and for the disposition of decedents’ estates, but . . . in many kinds of commercial transactions.” The impression that one gets is that the Restatement is the work of men who understand and sympathize with and are concerned about the practical

uses to which trusts may be put far more than they are interested in any mere dry-as-dust theory of trusts.

The Restatement of the Law of Trusts is not an attempt to answer all the questions of the law of trusts. For that modesty the Institute is to be commended. All through the text one finds *caveats* to the effect that the Institute takes no position on such-and-such subject. For example, in the chapter on the creation of a trust, the Institute, the *caveat* warns, takes no position on the question whether the transferee will be compelled to hold upon a constructive trust for the transferor an interest in land transferred to him *inter vivos*, where he orally agreed with the transferor to hold it in trust for the transferor, except under the circumstances stated in the section under discussion. Again, on the same general subject of the creation of a trust, the Institute takes no position on the question whether the transferee can be compelled to hold upon a constructive trust for the transferor an interest in land transferred to him *inter vivos*, where he orally agreed with the transferor to hold it in trust for a third person, but where a constructive trust for the third person is not imposed under the rule stated in the subsection under discussion. Knowing that the law of trusts is a growing and not a full grown science, one has all the more confidence in the draftsmen for declining to take a position on a point on which the law itself has not been crystallized.

Also, Mr. Scott and his advisers do not hesitate to call attention to inconsistencies in the law of trusts due to changing social and economic conditions and ideas. This is especially applicable to the enforcement of trusts alleged to be against public policy. What would be regarded as against public policy in one place or in one generation would not be so regarded in another place or at another time. The Restatement recognizes and does not undertake to harmonize inconsistencies in the law attributable to these differences in popular conception. Whether provisions in a trust instrument are unenforceable as being against public policy depends upon the conceptions of public policy which are prevalent in the community at the time of the creation of the trust. "Owing to the changing character of ideas of morality, especially in regard to the relations of the sexes and religious matters, and owing to the diversity of ideas in different communities, it is inadvisable, if not impossible, to make categorical statements on these matters."

The Restatement of the Law of Trusts is a distinctly modern, up-to-date treatise on the subject. For example, up to the publication of Remsen's *Preparation and Contest of Wills* (1907) and his *Preparation of Wills and Trusts* (1930), of Burton-Smith's work and Dean Bogert's *Trusts and Trustees* (1935), no standard or authoritative work on the law of trusts had gone into the subject of life insurance trusts except very briefly and superficially. In the Restatement at least seven sections, with comments and illustrations, are devoted wholly or partly to life insurance trusts. Another evidence of the up-to-dateness of the Restatement is the inclusion of a 5-page section (§ 185) on the duty of a trustee with respect to persons holding power of control. This section was not in the tentative draft. The actual experience of corporate trustees with individual co-trustees, on the whole, has been unsatisfactory. Yet all along but particularly since the depression settlors and testators frequently have insisted upon having an individual associated in some way-as co-trustee or otherwise-with their corporate trustee. The attorneys for settlors and testators have been cooperating with attorneys for trust institutions in trying to find a satisfactory substitute for co-trusteeships. The substitute they have hit upon is adviser to the corporate trustee-placing the title and leaving the custody, management and administration of the trust property in the hands of the corporate trustee and at the same time clothing the individual adviser with a certain amount of control

over the trustee. The adviser may be the settlor, the beneficiary, or a third party. The problem has been one of fixing ultimate responsibility—whether upon the trustee or the adviser. Unless the trust instrument is specific on the respective duties, powers, and responsibilities of the trustee and adviser, such confusion and delay and expense and, perhaps, loss in the administration of the trust is apt to follow as may nullify the advantages of the advisory relationship. In New Zealand, Australia and some of the other British Dominions the status of the adviser—known as advisory trustee—has been fixed definitely by statute. Not so in the United States. At the last moment, the Institute, sensing advisership as a recent development in the practice of trusteeship, incorporated a section on a trustee's duty with respect to a person holding power of control and gave five pages of comment and illustration on the point. Today no draftsman of a trust instrument should name an adviser to the trustee and no trust institution should accept a trust for which an adviser is named without studying carefully section 185 of the Restatement of the Law of Trusts.

The up-to-dateness of the Restatement is manifest also in its treatment of the subject of trust companies. All the writers on the legal aspects of trusts, English and American, up to Dean Bogert have had in mind the individual trustee. Dean Bogert realized that the trustee of the present time is frequently and, one may say, for many communities, usually a bank or trust company. The Restatement also takes cognizance of this fact. One is impressed by the number of places in the Restatement in which trust companies are discussed. For instance, the Restatement deals with such subjects as a trust company's administration of trusts through its officers, its capacity to administer charitable trusts, in general its capacity to be trustee, the standard of care and skill to which it is held in making investments, its deposit of trust funds in its own banking department, the efficacy of exculpatory provisions in trust instruments drawn by its own attorneys, the insolvency of a trust company as a ground for its removal as trustee, its liability for the acts of its officers and employees, and the sale of trust property to its own department (self-dealing). The Restatement, however, does not cover all the points about trust companies that one wishes it might cover; but, then, one must remember, the Restatement is stating, not making or remaking the law of trusts. Is a trust company held to a higher standard of care and skill than an individual trustee would be? The Restatement declares, "If the trustee is a bank or trust company, it must use in selecting investments the care and skill which the facilities which it has or should have render available, and it may properly be required to show that it has made a more thorough and complete investigation than would ordinarily be expected from an individual trustee." At the same time, the Restatement warns, "It is not intended to express an opinion whether there may or may not be circumstances under which a trustee is held to a standard of skill higher than the ordinary standard, where, though he does not possess a higher degree of skill, he has procured his appointment by representing that he has such skill, either by holding himself out generally as possessing a higher degree of skill than he has or by a representation made to the settlor in order to secure his appointment as trustee." This is especially pertinent to the representations and claims made by trust companies in their newspaper advertisements and booklets and through their new business men. One of the general principles stated in the Restatement is that a trustee is not only held to the standard of care and skill of a man of ordinary prudence but also, if he has greater skill than that of a man of ordinary prudence, "he is under a duty to exercise such skill as he has." This, too, bears directly upon the trust company.

Entirely apart from the mechanical make-up of the Restatement and from the points of emphasis that impress a lawyer and a trust man, the great accomplishment of the Restatement—the one by which it will be distinguished—is the presentation of the trust, which is a peculiar product of the Anglo-American system, in a complete, balanced, orderly, understandable way. We of the United States and of the British Empire who have grown up under the trust system and have never known anything else, do not realize how much an object of envy and emulation the trust system of the common law countries is to the civil law countries and to those countries under other systems of law. Within the past few years the lawyers of the non-common law countries have been giving special study to the possibility of adopting and adapting the trust devise for their own countries. Our Anglo-American trust system has been the subject of study in widely separated and otherwise divergent nations of the world. For instance, Dr. Pierre Lepaulle of the Paris bar, who in 1932 wrote a treatise on the trust (*Traité Théorique et Pratique Des Trusts en Droit Interne, en Droit Fiscal et en Droit International*, Paris: Rousseau & Cie, Editeurs) and who, by the way, was a student of Austin W. Scott, has said, "It is a great asset in a legal system to have an adaptable device at the crossroads of all legal institutions, and one which fulfills many social functions at the same time. It is the writer's hope the Anglo-Saxon jurists will assist their civilian brothers in reviving and developing the long forgotten *fiducia*." Dr. Lepaulle regards the *fiducia* as the French equivalent of the Anglo-American trust. Dr. Hermann M. Roth of Munich (*Der Trust*, N. G. Elwert'sche Verlagsbuch handlung, G. Braun, Marburg in Hessen, 1928) and Dr. Alfred Friedmann of Berlin (*Empfehlte sich Eine gesetzliche Regelung des Treuhänderverhältnisses*, Walter de Gruyter & Co., Berlin and Leipzig, 1930) each have recently written scholarly treatises on the trust with a view to its adaptability to the present German system. Dr. Alfaro Ricardo, of the Panama Bar, former President of the Republic of Panama, and now the Minister from Panama to the United States, has drafted a trust statute which has been adopted in Panama and has been copied in Puerto Rico and, it is expected, will be copied and adopted in other Latin-American States. Japan has adopted a trust law and a trust business law both of which are based upon the Anglo-American trust system and adapted to the distinctive requirements of the Japanese legal system. Thus in the nick of time, when so many of the lawyers and scholars of different countries of the world are interested in our trust system, the Institute presents an orderly statement of the general common law of trusts of the United States. Then, too, at home the Restatement presents the trust system as a device for rendering personal and humane individual and social services in a simple and direct way that accomplishes justice between man and man and between man and society. As Dr. Lepaulle says, it fulfills many social functions. Our whole trust system is the development of a device for doing justice in those cases in which the law by reason of its generality cannot always accomplish that end. It is quite refreshing to find here and there throughout the Restatement comments to the effect that a trustee must do a certain thing because it is the fair thing to do and must not do another thing because it would not be the fair thing to do. For instance, in discussing the allocation of receipts and expenses between principal and income (§ 233) the Restatement, referring to spreading expenses over several years and charging some of them against principal, says, "This is fair because the beneficiary entitled to the income has not received the full benefit from the improvements but the remaindermen receives a part of the benefit." As one reads the Restatement one is impressed with the fact that the questions uppermost in the minds of the legislators and judges who have evolved our trust system have been: Is it fair? Is it just? Is it right? If so, it must be good trust law; if not, it cannot be good trust law.

So, the American Law Institute, thanks to Austin W. Scott and his advisers, in the Restatement of the Law of Trusts has presented the common law of trusts in the United States in a way that for the lawyer and judge, teacher and student, is technically accurate and logically arranged and that for the layman—representative of that great body of our people who are testators or settlors or beneficiaries of trusts—presents the trust as a beneficent, humane and social device. The Restatement, then, is more than a legal treatise; it is a document of real import and potentiality in our social and economic order.

Wilmington, Del.

GILBERT T. STEPHENSON

CASES AND MATERIALS ON CREDITORS' RIGHTS. SECOND EDITION. BY JOHN HANNA. CHICAGO: THE FOUNDATION PRESS, INC., 1935. pp. xxiii, 1369.

The first edition of this casebook was published less than four years ago. The second edition has been made necessary by the extraordinary demand for the first edition in law schools and among practicing lawyers, a demand which has exhausted the first edition. The new edition has been made necessary also by the epochal development during the past four years of the law of bankruptcy. The second edition is characterized by the same features which won for the first edition the favor of law teachers, law students, and practicing lawyers.

The author's primary purpose is to place in the hands of the law student the cases, the statutes, and the knowledge of the administrative practices of lawyers and of business men, which concern the rights of unsecured creditors. The client who is an unsecured creditor wishes to be advised about "the relative advantages of the different devices of court help and self help." In order to give the client this advice, the lawyer obviously needs to have developed familiarity with these different devices and with their application to particular fact situations. To help the law student to develop this familiarity and a facility of practical application is the author's first objective.

The qualifications of the author for producing this administrative type of casebook are clearly shown by the book itself. "The simple, common sense plan," he says, "is based upon my own practice as a country lawyer in Nebraska and upon my experience with the War Finance Corporation." The author cites frequently the indispensable books and other writings of Garrard Glenn in this field, and points out that they also are based upon extensive practice at the bar. Further qualifications of the author are his long-continued use of these materials in his own law classes, and his experience gained in the preparation, use and revision of the first edition of the casebook.

The book is made up of Part I and Part II. The first part deals with five devices for the use of unsecured creditors in collecting from their debtors. These devices are (1) the enforcement of judgments, (2) the setting aside of fraudulent conveyances, (3) general assignments, (4) creditors' agreements, and (5) receiverships. There are 479 pages in this part of the book.

Part II deals with bankruptcy. Chapter I is introductory, with a concise and excellent historical summary. Chapter II presents bankruptcy administration in six sections. These sections are: jurisdiction, officials, procedure, persons subject to bankruptcy, offenses, and discharge. The distinctions between summary jurisdiction and plenary jurisdiction are well brought out. Under the title of procedure there is some discussion of the bankruptcy petition, but no specimen petitions are set out either in the text or in an appendix. This omission is noticeable because specimen

forms are presented for less important pleadings and drafts. Chapter III gives the acts of bankruptcy. Chapter IV deals with the assets of the estate. The next chapter deals with claims and distribution. Chapter VI presents 80 pages of the new cases on extensions, compositions and reorganizations. One division of this chapter deals with individual extensions and compositions under §§ 74 and 75 of the Act. The other division of the chapter deals with corporate reorganizations under §§ 77 and 77B. In addition, there is a four-page bibliography of books and articles on reorganizations. Three appendices present respectively the general orders in bankruptcy to May 15, 1935, to general order 52; the plan of reorganization of Paramount Publix Corporation; and a tentative draft of the new Frazier-Lemke Act. (The Bankruptcy Law of 1898 with its amendments to May 15, 1935, is set out in 77 pages in Chapter I of Part II.) There are 763 pages in this part of the book.

The reports of decided cases make up the principal contents of the book. Text material is included, but not as extensively as might be desired. Statutes are liberally distributed throughout the book. Extensive notes follow many of the cases. Law review articles and notes are cited with considerable profusion.

Although two-thirds of the book is concerned with bankruptcy, it would not be accurate to say that the book is just another bankruptcy casebook. The author does not over-emphasize the applicability of bankruptcy as a creditor's device. "To put a debtor in bankruptcy," he warns, "is not the only possibility and often may be the worst one." The five creditor's devices other than bankruptcy are presented in Part I in such a manner that they both contribute to, and also profit from the bankruptcy materials of Part II. There is a remarkable unity of substance and of procedural principle running throughout the book and binding its parts together.

The present ferment in the law of creditor and debtor is reflected in the casebook, both for better and for worse. The recent flood of new legislation and the continuing torrent of new decisions are stimulating, but they are also unsettling. It is probably inevitable that at certain points in the book one should get the impression of haste, of unevenness, almost of rawness. This impression is perhaps a timely and realistic reflection of the difficulties with which legislators, referees, federal judges and practicing lawyers are wrestling in seeking to assimilate new statutes, some of which are loosely drawn, and to meet other new problems. The author undoubtedly succeeds in including materials which "provoke discussion about the future of the law."

The comprehensiveness of the book is one of its great assets. Its administrative approach is another feature which insures its success. Lawyers, judges, and legislators have now for seven years been trying to help both distracted creditors and distressed debtors. Undoubtedly this book, like its predecessor, will be useful in helping these public officials to perform this difficult public service with competency, with fairness, and with integrity.

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DOCUMENTARY TEXTBOOK ON INTERNATIONAL RELATIONS. BY JOHN EUGENE HARLEY. LOS ANGELES: SUTTONHOUSE, 1934. pp. 848.

In accordance with precise academic terminology the title of this volume is inexact, for the book deals with international organization rather than international relations. The book is organized in five parts. Part 1 is devoted to "International Organization and Cooperation"; Part 2, to "Pacific Settlement of International

Disputes"; Part 3, to "The Renunciation of War"; Part 4, to "The Limitation and Reduction of Armaments"; and Part 5, to bibliographies. With the exception of Part 5, each major division is broken into several chapters. These, in turn, are organized in the form of sectional and chronological treatments of the subjects with which the chapters are concerned.

The unique feature claimed for this "textbook" is its emphasis upon the "documentary approach in the study of world affairs." It is no mere collection of documents. The author has exercised unusual critical ability in his selections and has done a thorough job in his inclusions. The documentary materials are accompanied by introductory statements and explanations, which make it possible for the uninitiated to "follow through" the entire documentary sources on the subjects selected for treatment. The book is therefore a most convenient tool for the use of students and teachers alike.

To the reviewer, however, it is only a tool. It does not, for example, begin to include "all that is necessary to secure an adequate understanding of international relations and world peace, both in their larger significance and their detailed aspects." This claim is staked out by Professor Charles E. Martin in his Introduction to the volume. The author himself appears to advance more moderate claims in the Preface.

The author's careful and extensive selection of documents is one thing. His assertion that a study of documents alone affords to students the most "realistic and lasting impression" of international relations is another thing, concerning which considerable doubts may be expressed. Obviously, a wide gulf separates the positions, ideas, and interests of officials who dictate the terms and phraseology of official documents in international relations and the students who read and study the documents. Must the professor bridge this chasm? If so, how many professors can qualify? Some of the more energetic professors, it may be presumed, have written the other types of textbooks. It is as against the "categorical judgments and statements of text writers (which) can no longer suffice for a college generation" that this volume is presented—according to Professor Martin.

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