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BOOK REVIEWS

A Treatise on the Substantive Law of Equity Jurisprudence, by Fred F. Lawrence, of the Portland, Maine, Bar. In two volumes: Pp. clxxiii, 632; xxii, 633-1407. Albany: Matthew Bender and Company, 1929.

Mr. Lawrence has vouchsafed a treatise on the whole of Equity. Courageously, if superficially, he has surveyed the fields of specific performance of contract, injunction, quasi-contract, trusts, reformation, rescission, mortgages, liens, removal of cloud, interpleader, and their environs. All of this in some 1200 net pages of text, nearly half of which are devoted to footnote references. It is remarkable that he has ploughed up the obvious as much as he has.

His citations are to the more modern cases. He has made a thoughtful but cautious use of scholars' contributions to legal periodicals. Although he is interested in the "fusion" codes only to the extent of demonstrating somewhat gleefully that they have failed of their goal, his attitude toward the more controversial subjects is on the whole refreshingly liberal and constructive. Witness his treatment of the adage that "equity acts only *in personam*," and of such administrative factors as difficulty of supervision, conditional decrees, adequacy of the remedy at law, the balance of convenience, and "lack of mutuality."

Much of the book, on the other hand, though by no means all, is thin, platitudinous and unconscious of factual difficulties. There is a frequent unawareness of statutory changes. And the text is badly arranged. An excellent index, however, helps enormously.

M. T. VAN HECKE.

Chapel Hill, N. C.

Federal Income and Estate Tax Laws, by Walter E. Barton and Carroll W. Browning. Fourth Edition. John Byrne & Company, Washington. 1922. Pp. iii, 766.

Since the adoption of the 16th amendment, February 25, 1913, Congress has passed eight income tax laws, or an average of one for every two years. A new law is passed almost before decisions of the Federal Courts have been rendered on disputed points in the old one. However, since 1921, no radical changes have been made in

the law. The decisions of the Board of Tax Appeals and the Federal Courts, on points of law and interpretation of the 1921 Act, 1924 Act, and 1926 Act, are applicable to the 1928 Act which is the last one enacted.

This book is arranged to present comparisons of the various income and estate tax laws. Part One, covering 603 pages, deals with the acts of 1928, 1926, 1924, 1921, 1918, and 1917. The outline used from Page 1 to 448 is practically the same as the Table of Contents of Title I of the 1928 Act. Each page is divided into three columns. The income tax law, sections 1 to 322 inclusive of the Revenue Act of 1928, is copied in the left column of each double page. The corresponding section of the acts of 1926, 1924, 1921, 1918, and 1917 are placed in parallel columns across the two pages folding together. Thus on every page the material presented from each act is the same although the sections may be numbered differently. Annotations to the Board of Tax Appeal Reports and to the Federal Court decisions are placed at the bottom of the pages. Most of the annotations refer to the previous acts, but since the same subject of each act is shown in parallel columns on the same page, the annotations may easily be used in construing the 1928 Act.

Following the income tax laws a comparison of the War-Profits and Excess Profits Taxes provided in the Acts of 1921, 1918, and 1917 is presented between pages 448 and 496. These Acts are not so important to the practicing lawyer today. No War-Profit or Excess Profit Taxes have been enacted since 1921, and most cases arising under the Acts previous to 1921 have either been settled or barred by the statutes of limitations.

The Estate Tax laws enacted as part of the Revenue Acts of 1926, 1924, 1921, 1918, 1917, and 1916 are presented next in parallel columns between pages 496 and 579. No new Estate Tax law was passed in 1928. Sections 401 to 404 inclusive of the Revenue Act of 1928 make minor amendments to the 1926 Act. These amendments are shown by the authors in footnotes under the proper sections of the 1926 Act.

Sections 501 to 507 inclusive of the Revenue Act of 1928, that provide amendment to the 1926 Income Tax law regarding the statute of limitations, are presented in footnotes.

Next the Administrative provisions and the General provisions of the Acts of 1928, 1926, 1924, 1921, 1918, and 1917 are presented

in parallel columns between pages 580 and 603, except certain sections referred to in footnotes, and the sections of the Acts concerning the Board of Tax Appeals.

Part Two of the book presents in consecutive order the following: Gift Tax of 1924; Board of Tax Appeals provisions; Revenue Acts of 1909, 1913, and 1916; sections of the Revised Statutes applicable to the collection and administration of taxes, but not a part of the Revenue Acts; sections from the Bankruptcy Act; and constitutional provisions applicable to taxation. The last section, covering constitutional provisions, with the annotations, should be very valuable to one who desires to test the constitutionality of any section of the 1928 Act.

Reference to any part of the work can be made without difficulty. A Table of Contents, and an alphabetical list of cases cited, preface the book. At the end an apparently complete index to sections of the Acts and an index to the decisions are given.

This book is more valuable to attorneys who are interested in arguing cases before the Board of Tax Appeals and before the courts, than it is to practicing accountants whose work is largely the preparation of tax returns. The Treasury Regulations and the current rulings of the Revenue Bureau, are omitted. These are prepared by the Bureau to aid the taxpayer, regarding methods of accounting approved by the Bureau, and in the preparation of returns. An attorney who specializes in tax cases could not afford to substitute this book for any of the tax services, such as Prentice Hall; but for the attorney who only has an occasional tax case, or whose tax practice does not justify a subscription to a tax service, it should be very valuable. There are about 4500 cases cited. The annotations are full enough to explain the holding of the cases. A rather complete digest of the cases is given very often, while others are more brief.

C. B. SPARGER.

Chapel Hill, N. C.

A Concise History of The Common Law, by Theodore F. T. Plucknett. The Lawyers Co-operative Publishing Company, Rochester, 1929. Pp. xviii, 458.

"A Concise History of the Common Law" is a title fittingly descriptive of this little volume prepared by Professor Plucknett. This distinguished young legal historian, writing in a particularly lucid

and vigorous style, has presented in less than five hundred pages the history of the development of the common law. And the picture, though painted with a conscious avoidance of detail and technicality, stands, nevertheless, complete and admirably suited to effectuate the purpose of the artist. The work has been prepared as an historical introduction to the study of law especially for the benefit of the law student still in the early stages of his legal education. To this end the author has placed the stress "upon those historical conditions in politics, economics, and social and religious thought" which have contributed to the formation of the law. To the general reader, also interested in the broad aspects of legal history, the work offers graphic and concise information.

The author has made two general divisions of the subject matter treated. Book One is divided into four parts, in the first of which is outlined the influence of political, social, religious, and economic events upon the formation of the law in England from the Anglo-Saxon period through the eighteenth century. Among other things, the author portrays in an interesting manner the struggle between Church and State for supremacy; also the background of the Statute of Frauds and the writ of Habeas Corpus. Part II is taken up with a discussion of the early court systems, the jury, the legal profession and professional literature.

In Part III Professor Plucknett traces the influence of what he calls "External Forces" on the development of the common law. Those forces discussed are the civil law of Rome, the canon law of the Church, the Law Merchant, and Equity.

Part IV is devoted to a description of the various elements which have contributed to the growth of the law, to-wit: the flexibility of custom, the forms of action, legislation, and the principle of precedent. Professor Plucknett justifies his treatment of these elements, as methods of progress, in the following language: "*Custom* in its greatest days was flexible, and the growth of custom was a potent factor in effecting legal change. With a centralized system, however, other and more exact machinery must be devised; hence the establishment of new *forms of action* which will permit officially minded courts to perform newer duties, while *legislation* will promote uniformity throughout the common law jurisdiction. But still slower and more subtle changes can yet be produced through the courts themselves developing a sort of custom by taking tentative steps and