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Book Review

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The Legal Status of the Tenant Farmer in the Southeast. By Charles S. Mangum, Jr. Chapel Hill: The University of North Carolina Press, 1952. Pp. 464, index. $7.50.

"A South Carolina merchant induced a landlord to indorse a lease in the following language: 'I hereby waive my landlord's lien for rent to the extent of $75.00, reserving the right to give or take the first bale weighing 400 pounds, and bale about afterwards.' "[1] Here, in a random sentence, are many of the problems this notable book takes up. It is an 1890 case, in an appellate court, in a cotton State, casual, indefinite, colloquial. And it involves the vexations of waiver of lien. It whiffs, too, of the easy authority of the landlord, and the distance of the tenant beneath him. The remarkable thing is that the waiver is in writing, for oral waivers, as Mangum shows, are valid and general.

It has been a mighty toil to collect and sort and size this body of law. No one had ever before made any serious study of it. And yet these statutes and decisions have ruled the lives of all the generations of Southern agriculture since 1865, and for free people before that.

Mangum has not prepared a collection of cases. He has undertaken to show the legal status of the tenant farmer as it has evolved. His illustrations are drawn from a succession of cases which have tested the law at its ill-defined edges.

It isn't easy law. Mangum covers eleven States: all of the South except Oklahoma and Texas. And he takes in most of a century. His authorities are the statutes and the decisions of State appellate courts. And he brings it all in: the growth of the distinction between tenancies and cropping contracts; the oral lease, frauds, holding over, how to get your farm back, how to resist unlawful eviction, such rights as remain to a tenant after eviction, whose business it is to repair the buildings, liens and whose lien comes ahead of whose, what happens when a landlord or a tenant sells out while the lease is still running, the pains and penalties that attach to hauling off liened crops in the dark of night, what devices a landlord or a merchant has for realizing on his liens, the rights of croppers and laborers, and even the law of peonage.

This is not a book for the farmer's own shelf. It will need a more concentrated peering into than your everyday layman will give it. But for the student of the Southern economy, or for the country lawyer with a hard case and a high court, or for the farmer-lawyer-legislator ap-

[1] P. 315.

pointed to a Commission to revise and codify the law of land tenure, or for a judge thinking to bend the law to modern needs, it is a necessary book.

Your good law-maker should read it, too. For here are the statutes and cases that rule in their several segments of the subject, assembled from the books of over a dozen States, ready for a strong man to mold them into a better Southern agricultural law.

For it has been a tight system. The oldest root is feudalism, and there is an unspoken tap down into slavery. The men who first dealt out the statutes in the years just after the Civil War were protecting their one remaining property. They had land, and they knew how to manage work. In putting idle land and a labor force of landless whites and the newly free together they began the rebuilding of the South. But they wrote a one-sided code, guarding their own rights with an automatic and rigid lien on the tenant's crop, but in most States visiting scant penalties on landlords who misappropriate from croppers, or provide poor equipment or wretched shacks.

One great cause of controversy is the annual oral lease, which every State recognizes, and which is still, in a literate age, the basis of by far the greater part of Southern leaseholds. Either party to such a lease, if he charges fraud, must convince a court on the basis of memory, often unassisted by witnesses. And notoriously, Southern courts have been reluctant to accept the word of a Negro tenant, or even a white tenant, against his landlord. Still, the system rubbed along, with many tenants feeling that they were getting unfair deals, and their landlords convinced that the men themselves were trifling.

Louisiana alone makes statutory provision for compensation to the tenant for unexhausted improvements he may have made. The lack of such a provision is a terrible damper to energy and thrift, and without it, the lands and the farm buildings and the character of the farm people of the South have suffered deeply.

Louisiana's differences are interesting. In point after point, her statutes and her courts, interpreting the Civil Law, are fairer to the men on each side of a lease than the common-law States. For instance, in Louisiana a tenant at the end of his contract is entitled to remove improvements, and laborers, landlords, and tenants have an ordered priority in crop liens.

On things to do Mangum is cautious, and doubtless wise. He mistrusts the remedies of statutory enactment, and wants instead a broad program of education of the farmers, private experience with better leases, and perhaps a Southwide commission to review the law and the practice, and recommend needed changes.

Meanwhile, some things are clear. If we retain the annual oral lease, we would be better served if by statute tenants hold over unless notified four or six months before the end of each year. We should find a way to compensate tenants for improvements, and landlords should have better remedies, in law, for waste by their tenants. Minimum standards of rural housing and for farm buildings could be afforded now. As a matter of fact, Southern agriculture has, in the last ten or fifteen years, greatly improved in housing for both men and stock. Some accessible and cheap system of arbitration would help a lot. Written leases, specially negotiated for each farmer, would do much to diminish the sense of grievance among both landlords and tenants.

The South is moving now into a new agricultural economy in which some of these problems of tenure are acute. Mangum's book is essentially the law of cotton and corn and tobacco. We are going to cows. And cows are not an annual crop. It was the virtue of sharecropping and tenancy that they enabled the landless man to go into the prevailing farm economy, and try to go up the ladder to ownership. But with livestock, your landless man must get a lease that's good for years, preferably for many years. Else, how build a herd, and a barn, and a dairy business, when you might be thrown off any December?

The answer thus far has been that the men who have gone in for livestock have been men with capital enough to buy both cattle and land. And the little fellow has stuck to the old crops, on his old lease. There are many exceptions, but the process of squeezing settled farm people off the land is certainly assisted by our addiction to the leasing system we adopted just at the end of the slavery period.

A note on usefulness. Pains have been taken to make this biggish book yield its contents. The index is detailed and accurate, and there is sufficient cross-indexing to let the layman find things under his own terms, if he has little command of *privity* and *champerty* and *attornment*. On certain more difficult topics the law is carefully laid out, State by State. And for the lawyer, the citations to the decisions, the statutes and the other legal literature appear to be complete.

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