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Book Review of Cases and Other Materials on Judicial Remedies

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BOOK REVIEW

CASES AND OTHER MATERIALS ON JUDICIAL REMEDIES. By Austin W. Scott and Sidney P. Simpson. Cambridge: Published by the Editors. 1938. pp. xi, 1309. \$7.00.

Both this book and the law school course it would be used in, represent somewhat of a departure from what has been the customary approach to and treatment of the problems of the adjective side of the law. In the reviewer's opinion this departure is a distinct improvement.

Heretofore it has been customary to deal with the various phases of adjective law, such as common law pleading, equity pleading and practice, code pleading, civil procedure and trial and appellate practice, in separate and distinct courses sprinkled at random over the three year course of study. Consequently, being given these various phases of adjective law at intermittent periods, by different instructors and in completely separate and distinct packages, the student usually failed to acquire a coherent panoramic conception of the field of judicial remedies. The acquisition of such a conception and understanding of this branch of law is most important and practical when engaging in the practice of the profession.

The authors have distinctly facilitated the imparting of this concept by treating within the covers of this book the following subjects: Development of the court system; procedure in actions at law; the common law forms of action; common law pleading and trial; enforcement and effect of judgments at law; extraordinary le-

gal remedies; the history of equity; equity pleading and trial; equity jurisdiction in tort and contract cases; the enforcement and effect of equitable decrees; introduction to modern procedure; and the elements of code pleading.

The authors expressly subscribe to the sound belief that modern procedure can be understood best, and can be fully understood only, on the basis of a knowledge of common law procedure and the practice of classical equity. Consequently the general plan of the book is historical. By this, however, the reviewer does not wish to be understood to mean that the cases and materials incorporated in the book are largely of antiquarian interest. On the contrary these cases and materials are very significant from the point of view of modern application. The historical perspective employed by the authors in the selection of their cases and materials distinctly emphasizes and clarifies the modern significance and application of the principles involved.

The reviewer, though a believer in the case system of instruction, is of the opinion that pleading and procedural courses cannot be most effectively taught solely through the use of cases. This field does not lend itself to case treatment as readily as the field of substantive law. Consequently it is thought that the inclusion of copious text material in the book is another commendable feature. This text material, not including the numerous footnotes, comprises more than three hundred fifty of the twelve hundred seventy-five pages.

The text material is most comprehensive in nature, including many scholarly and helpful notes by the authors, full records of litigated cases, excerpts from standard treatises and legal classics, statutes, rules of court, forms of pleading and even the pertinent parts of the new Federal Rules of Civil Procedure.

The book is a commendable treatment of a broad and difficult field. It includes within its scope a survey of Anglo-American procedural law from the real actions of medieval England to the modernized procedure of the Judicature Acts, the new Federal Rules of Civil Procedure and the more advanced code practice. The scope of the work and the method of selecting and presenting the cases and materials make the book a real contribution in the field of adjective law.

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