

Washington University Law Review

Volume 13 | Issue 4

1928

Editorial Notes

The Editors

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Recommended Citation

The Editors, *Editorial Notes*, 13 ST. LOUIS L. REV. 254 (1928).

Available at: https://openscholarship.wustl.edu/law_lawreview/vol13/iss4/3

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ST. LOUIS LAW REVIEW

Published in December, February, April and June by the Undergraduates of
Washington University School of Law.

Subscription Price \$2.00 per Annum. Seventy-five Cents per Copy.

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Notes

CONTRIBUTIONS TO THIS ISSUE

THE LAWS OF THE TWELVE TABLES. Prepared by E. B. Conant.

Mr. Conant is Professor of Law at the Washington University School of Law. His complete translation of the Twelve Tables should be of assistance to students of Roman law and of interest to all students of jurisprudence.

LAW AND ETHICS. By William G. Hammond.

Mr. Hammond was Dean of the Washington University School of Law from 1881 to 1894. He was one of the most noted legal scholars and educators of his day, with published articles in many periodicals and with numerous books to his credit. He was first chairman of the American Bar Association's Committee on Legal Education. Upon the seventy-fifth anniversary of the University's

founding it seems peculiarly appropriate to print this excerpt from his writings, which appeared originally in the Moot Court Record of the School of Law and which has not heretofore been published in any medium of general circulation. The Moot Court Record has been published continuously for the law students at Washington University for the past forty years. At present it contains only the proceedings of the practice court of the School of Law.

PROTECTION THROUGH RECORDING OF CONDITIONAL SALES OF FIXTURES

This note involves a consideration of the problems which have arisen in settling the conflicting rights of conditional sellers of fixtures and of subsequent purchasers of the realty. Take a typical case: A purchases from B on a conditional sales contract a machine, installing it in his factory, the circumstances being such that it becomes a fixture. B records his contract.¹ Before B is paid in full, however, A sells his factory to C, who now resists B's claim against him for a return of the machine. Can C successfully resist this claim? In other words, by filing the conditional sale contract, did the conditional seller B thereby give constructive notice to all subsequent purchasers or encumbrancers of the realty?

An answer to this problem would be simple but for the fact that in practically all states, including Missouri,² there are two separate sets of records for the recording of instruments, one for those relating to realty and one for those relating to personalty, the latter including conditional sales contracts and chattel mortgages. The solution depends upon whether or not the filing of a conditional sale agreement in its own proper book gives constructive notice to a subsequent purchaser of the realty who looks only to the real estate records.

Suppose a prospective purchaser of realty goes to the office of the recorder of deeds to look up the title. He searches through the real estate records, finds the title clear, and purchases. Had he searched the personal property records, he would have found a conditional sale contract covering fixtures ordinarily part of the realty. Is he to be deprived of these fixtures? On the other hand, has not the conditional vendor of the fixtures done all that he reasonably could do to protect himself?

¹ Statutes generally provide that conditional sales shall be void as to creditors and subsequent purchasers in good faith unless recorded. See R. S. Mo. 1919, Sec. 2284.

² R. S. Mo. 1919, Sec. 10570: "Instruments in writing, conveying chattels or personal property alone, which by any law of this state are required to be recorded or admitted of record in any recorder's office in this state, shall be recorded in a series of volumes separate from those used for recording conveyances of real estate."