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Review of “Cases on Future Interests,” By Richard R. Powell

Charles E. Cullen

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Book Reviews

CASES ON FUTURE INTERESTS. By *Richard R. Powell*, Professor of Law, Columbia University, assisted by *Lewis M. Simes*, Professor of Law, Ohio State University. Pp. xxviii and 962. St. Paul: West Publishing Company, 1928. Price \$6.00.

Recent contributions to casebook literature show a tendency to depart from a more or less stereotyped form which set forth a series of cases arranged according to the generally accepted divisions of the subject matter. This book of Professors Powell and Simes is one of departure and desirably so. Probably no subject of the curriculum has caused more grief to students of law than what is known as "future interests" in real property. Rooted in the complicated family settlements which the old English conveyancers drew up, and illustrated for study purposes by litigation over issues arising therefrom, there has always been a suggestion of unreality, impossibility, or impracticability about this subject. The authors have set about removing this impression by stressing the practical application of the rules to such modern situations as arise in practice in America today.

That this branch of real property law is understandable only in the light of history is recognized in the opening sketch of the evolution of future interests covering the first twenty pages. This feature is further taken care of by excerpts from standard treatises where needed and by the inclusion of about sixty of the leading cases of earlier times, established precedents familiar to us from the books of Gray and Kales, to whom the authors acknowledge their indebtedness.

The recognition of the historical background and the minor number of English precedents mark the limit of similarity of this book to its predecessors. The outstanding features are two: the number of modern cases in which the law of future interests is applied; and the originality of arrangement and treatment by the authors. As to the first, two-thirds of the cases reported as text of the volume are American and two-thirds of those are of a date later than 1900. In this connection Professor Powell points out that the problems of future interests arise today in the drafting or construction of conveyances to charities or trust agreements, or option contracts, or wills, all of which may affect stocks and bonds as well as chattels real and lands themselves. In this connection we find quite an amount of space given to the subject of future interests in personal property, pages 473-512.

As regards the author's treatment of his materials we find it evidenced in three ways: the arrangement of his materials; the constant citation and comparison of rulings with or under modern statutes; and the provocative notes and problem questions which follow most of the cases. A table of the modern statutes cited from various states covers five pages in the introduction, and many brief excerpts are set out in full where pertinent. This emphasizes the modern value and attitude. The classification and arrangement of material does not follow that of Gray and Kales. In the place of the usual initiation into estates on condition, we find ourselves, following the brief historical sketch, in a classification of "expectant estates." Rights to reenter for condition broken, possibilities of reverter, and expectancies are relegated to the relative amount of space they deserve. A very good analysis and amount of space is given to powers. The Rule Against Perpetuities is developed in three chapters: Evolution, Chapter 15; The Objective or Objectives of the Rule, Chapter 16; and The Operation of

the Rule, Chapter 17. A feature is Chapter 11, dealing with Statutory Proceedings Which Minimize the Inalienability Caused by the Existence of Future Interests, a very desirable addition.

This book is a forward looking presentation of a difficult field of law, which has always been hampered by too much conservatism. It builds on the contributions of previous scholars in the field, giving enough of the indispensable source material, of the past, but not slavishly bowing to it. It opens up to the student what has been done to relieve from the handicaps of the old rules, and puts him on inquiry for further improvement. It is a distinct contribution to the teaching material in the field of future interests.

CHARLES EDWARD CULLEN.

Washington University School of Law.

HANDBOOK OF ROMAN LAW. By *Max Radin*. Hornbook Series. St. Paul: West Publishing Co., 1927. Price, \$4.50.

Here is an unusual addition to the familiar Hornbook Series. One feels, at the outset, that one must approach it a little more patiently and respectfully than one does the other volumes that are to be found in the legal nursery of the West Publishing Company. One feels—even if one has only the slightest idea of the complexity of materials and the centuries of scholarship that have gone into the study of Roman Law—that it would be something like sacrilege to open Dr. Radin's book, "hornbook" though it be, with the popular demand, "Tell me all and tell me quick!"

And yet one wonders—before opening the book—whether, after all, the sacrilege has not already been committed by its learned and reputable author. One thinks of the great tomes of Mommsen and Savigny and one wonders what their authors would say of a scholar who attempted to compress the whole vast universe of the *Corpus Juris* into a few dozen tabloid paragraphs. Had the attempt been made by some quack scholar of the Tabloid School, the offense might be overlooked. But to have been made one of the *gelehrte*, by one of the dignified patricians of the Old School—"Et tu, Brute!"

One must wonder also what sort of a reaction this book will have on the other side of the camp—on the pipoudrous rank and file of our American lawyers and law-students. It is said, but the rumor has not yet been verified, that there exists a law school somewhere in the Middle West which still regards a course in Roman Law as an essential part of its regular curriculum. It is nevertheless safe to assume that to the great majority not only of our *juris studentes*, but even of our *juris prudentes*, the law of ancient Rome appears either as a mysterious ghost, from which it is wise to stand at a safe and respectful distance, or else as a great oracle that talks a lot of foreign gibberish but now and then drops a phrase or a maxim that sounds good, even if it doesn't mean anything. These will undoubtedly greet Dr. Radin's book with one simple and stubborn query—*cui bono?*

But whatever reception Dr. Radin's book will receive (and the West Publishing Company must be heartily congratulated on thus taking the risk), Dr. Radin need have no apologies to offer—either to the patricians or to the plebeians. For the truth of the matter is that he has done a splendid piece of work—probably the best elementary review of the leading concepts of Roman law that has yet been written or translated into the English language. As a piece of writing it is far superior to the oatmeal pap of its companion "Hornbooks," while as a work of erudition and scholarly analysis it deserves a place on the shelf beside Girard's famous *MANUEL DE DROIT ROMAIN* and Professor Buckland's immense *TEXTBOOK OF ROMAN LAW* (Buckland's book, incidentally, is anything but pleasant reading, while the Frenchman's still remains untranslated.)