
BOOK REVIEWS

TRUSTS AND TRUSTEES. George Gleason Bogert. University of Chicago Law School. West Publishing Co., St. Paul, Minn. & Vernon Law Book Co., Kansas City, Mo., 1935. Seven volumes. \$50.00.

This monumental work on the subject of Trusts will be warmly welcomed by the legal profession. There has long been a great and growing need for such a careful and elaborate working over of the subject matter of this field. Source and secondary material, English as well as American, has been painstakingly sifted and utilized. More than 22,000 cases are cited and ample use is made of text books and periodical literature. Where necessary Professor Bogert has not hesitated to treat allied topics to clarify and elaborate the problem at hand. For example, a discussion of perpetuities and accumulations in respect to creation and administration of trusts is found essential. Similarly, the difficult problem of taxation, implicit in the trustee-cestui que trust relationship, receives full treatment in chapter fifteen and that much controverted topic, the Business Trust, occupies the entire sixteenth chapter, which will doubtless be most useful in dispelling the general misunderstanding of the substance and purpose of this modern device for carrying on business.

After a brief historical chapter, Professor Bogert makes the approach to the subject which has been utilized by writers and scholars since Ames' famous casebook on Trusts, viz. a careful and elaborate comparison of the jural relation of trustee-cestui que trust with that existing between persons in other jural relationships. It is believed that a careful study of this chapter will do much to clarify misunderstandings in the field of trusts. This chapter should be studied as a whole and is good preparatory work for any trust problem.

The remainder of volume one and the major portion of volume two is devoted to a consideration of the creation, and the elements of, the express trust, in which the essentials are all elaborated. Quite properly the subject of charitable trusts is treated with the express trust in this portion of the book.

The last chapter in volume two is devoted to resulting trusts and the first chapter of volume three to constructive trusts. Professor Bogert states in Section 1 and in Section 451 that he has followed the old classification of the subject, which is so firmly imbedded in the case

law This is a matter of some disappointment. In this latter section he confesses that Professor Costigan's classification is "more logical" and, it may be added, that it would go far towards the elimination of serious confusion were it adopted. To classify a body of case law embodying substantive rights as a coordinate class with another body of case law entirely remedial in character is poor classification and it seems should be no longer employed. Professor Bogert is, of course, under no misapprehension in this respect. He begins his discussion of the constructive trust, Section 471, by defining it as "a device used by chancery to compel," etc., thus revealing its adjective quality. The Restatement of the Law of Trusts by the American Law Institute will be found to have departed from this time honored classification and it is believed a great contribution would have been made if the same had been done here. The casual reader may not see, as clearly as Professor Bogert does, the real difference between the two classes, Resulting and Constructive Trusts.

Following the chapter on constructive trusts that multitude of problems involved in the Administration of the Trust occupy the remainder of the third and all of the fourth volume, except the final chapter which deals with termination and modification of trusts.

Volumes five and six are devoted to forms. It is not unlikely that the practicing lawyer will find these volumes particularly useful. An adequate appraisal of the value of forms can only come from their use. It should not be overlooked that there is a separate index to the forms at the end of the sixth volume. The last volume is made up entirely of general index and table cases. The index is excellent. In its two hundred eighty-six pages there seems to be omitted no possible key by which access to the contents of the books could be afforded.

The entire work is beautifully done. Binding, print and paper are pleasing, the sort which makes its use a pleasurable experience. Two mild criticisms of the book may be ventured, however. There is some evidence of padding in the method adopted in citing cases in footnotes and in the table of cases. Furthermore, it is difficult to justify, though perhaps not hard to explain, the preferential position given the reporter system in the citation of cases. Aside from being a bit inconvenient in use, especially if one is searching for cases of a particular jurisdiction, it is an unusual departure from the time honored method of giving the official reporter citation first. Professor Bogert has given the profession a magnificent work and every lawyer will want these volumes at his hand.

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