

## Cowans: Bankruptcy Law and Practice

Theodore Gulino

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all, and should be read by all in the legal profession. While perhaps not offering a palliative, let alone a remedy to the problem, it should encourage many legal technicians to examine the problem within the existing implementation philosophy of our tax laws. This book is truly worth more than that commendation, and Mr. Stern should be applauded.

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*Bankruptcy Law and Practice.* By DANIEL R. COWANS. St. Paul: West Publishing Company, 1963. Pp. xxviii, 1079. \$25.00.

The great expansion in recent years of bankruptcy petitions filed in the United States District Courts created a need for a new text on the subject of bankruptcy from the point of view of the so-called "wage earner" case. Statistical research in bankruptcy cases revealed that upwards of ninety per cent of all bankruptcies are voluntary petitions in which the Referee in Bankruptcy finds that there are no assets in the bankrupt's estate. Statistics also show that this ninety per cent group of bankrupts are not in business but are individuals dependent upon wages or salary for their income.

There are a number of good bankruptcy texts from the standpoint of the business bankruptcy case which require lengthy discussion of such topics as the trustee's title to business property, the amenability of adverse parties to the summary jurisdiction of the bankruptcy court as opposed to plenary jurisdiction, and resolution of conflicting claims to jurisdiction over various aspects of insolvency litigation.

A text presented from the point of view of the wage-earner petitioner in bankruptcy demands greater attention to such topics as the bankrupt's discharge and non-dischargeable debts under section 17. Legal aspects of the bankrupt's property in a wage-earner bankruptcy have to be written with primary emphasis on what property the bankrupt may keep after the bankruptcy case is closed.

The efforts of Mr. Cowans to produce a new bankruptcy manual primarily for a bankrupt's attorney who has no prior information on the subject, rather than for the specialist, satisfy most needs and can be regarded as successful. The text omits intensive treatment of many areas of bankruptcy law such as corporate reorganizations, the rights of creditors, either individually or collectively, the disallowance of claims, the trustee's position in a bankruptcy proceedings and the effect of preferences under section 60a of the Bankruptcy Act.

Mr. Cowans presents the material necessary to process a no-asset bankruptcy case in a chronological order starting with a thorough consideration of whether a hard-pressed debtor should file a petition and carrying through with a description of the proper preparation of the bankrupt's schedules, representing the bankrupt at the first meeting of creditors and amending the schedules. The author discusses many matters which do not fall within the usual pattern of these cases, and he covers additional selective matters, such as involuntary bankruptcy, partnership and corporate petitions and reviews and appeals from the bankruptcy referee's orders. Probably recognizing that wage-earner extensions and compositions under Chapter XIII are futile in large population centers, the author confines his coverage to a short description of this procedure.

The mechanical make-up of this book, such as the typography, index and the binding, is well-planned and well-executed. Each chapter commences with an analysis which gives a degree of lucidity to the maze of federal and state law that is American bankruptcy jurisprudence. The sixty-page index cross-references the author's material, and it is all keyed into other West Publishing Company publications, but there are very few references to works produced by other publishers. The portions of the Bankruptcy Act relevant to the author's material, namely, Chapters I to VIII and Chapter XIII, and the General Orders in Bankruptcy are set out in full in the appendix. This work contains a section on court forms that is complete insofar as the straight wage-earner case is concerned, and contains a few basic forms on Chapter XI reorganization cases and Chapter XII wage-earner cases. Many of the court forms are accompanied with informative comments that are helpful pointers to the practicing attorney.

The treatment of material in this book gives life to a complex field of law and reflects Mr. Cowans' years of experience as a Referee in Bankruptcy in California. This book is not only practical in its approach to legal theory, but departs from the patchwork seen in many volumes on bankruptcy and is realistic in appraising the underlying factual situations producing bankruptcies.

THEODORE GULINO\*

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*Das Gericht vertagt sich (The Tribunal Shall Adjourn)*. By CARL HAENSEL. Hamburg: Claassen Verlag, 1960. Pp. 337.

Here, the great Nuremberg trial is presented by a participating defense attorney in an unexpectedly artistic form. Though subtitled by its author as excerpts from a diary, this work might better be described as a sketchbook. At any rate, it is this aspect of the work which particularly impressed this reader, who, it must be added, is well aware that the author is, in fact, concentrating throughout on the legal and philosophical problems at the core of his thinking.

Some of the sketches are absolutely literal and minutely detailed, especially those giving features of the courtroom and suggesting its atmosphere of tension; others are freer, broader, but likewise deftly executed, such as those of General Keitel, the rigid, unthinking "cadet"; Ribbentrop, the schoolboy called on the carpet; or Hess, the silent wraith. Here and there, indeed, one even comes upon a whimsical arabesque. The author knows well what can be done with words and has, moreover, a sense of drama. Witness, in particular, an "off-stage" monologue assigned to Goering, grimly parodying Shakespeare's Caesar.

Even very extended accounts of procedural wrangling are sustained by the sure theatrical hand. In particular, there come to mind the passages dealing with the fruitless struggles of the defense to have evidence admitted disclosing the secret pact between Hitler and Stalin, divicing Poland between them. Other devices freely used are metaphors, flashbacks and, with striking success, brief literary quotations—from Pindar, G. K. Chesterton, Oscar Wilde, to mention a few. Such, in part, is the repertory of means employed, and it is hoped that this description, though focused only on the surface of the work, will nevertheless hint at the abundance of material which lies in this source and which is perhaps hardly to be found elsewhere.

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