

## Chafee: Cases on Equity

John W. Curran

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mate to go beyond the book and inquire as to what Professor Braucher, in his three-year trial run, has found to be the best *modus operandi* of the classroom.

He states that "class time is almost entirely taken up with the discussion of problems. Most of the problems are my abstracts of recent cases, with the court's decision omitted. Sometimes the problem is moved back from the litigation stage to the planning or drafting stage. . . . We discuss the solution of the problems under the principles elaborated in the cases, under the governing uniform acts, and under the proposed [Uniform Commercial] Code."<sup>1</sup>

An obvious difficulty is that the new course cannot be inserted simply into any existing curriculum. Its elbows touch many other courses. To the extent that this will inspire general re-examination of the setup of courses in this area, this is wholly desirable. To the extent that it may delay adoption of the new format and perhaps the new book in many specific instances, it is to be regretted.

Professor Braucher's course and book may have another salutary effect. Conceived to meet the requirements of reduced time for this area, they go a long way toward justifying more time. If Sales and Bills and Notes went to seed as they existed, they are revived in this new frame. One wonders what else is so important in the law school that only two hours can be spared for this stimulating new study, especially in view of the practicing lawyer's need for preparation in this theatre.

Fortunately there is enough material here in these two books to permit expansion wherever that is feasible. At the same time, Professor Braucher has tried to keep his materials within bounds, obviously to avoid the demoralizing effect upon instructor and student of large sections being left untouched under the goad of a too-rapid schedule. If the need demonstrated by Professor Braucher leads to a more generous allocation of time—as would indeed seem to be the concomitant development—it is conceivable that he may later wish to expand his materials considerably. One's appetite is sufficiently whetted to make such a possibility welcome.

JOHN F. SEMBOWER\*

*Cases on Equity.* By ZECHARIAH CHAFEE, JR., SIDNEY POST SIMPSON, and JOHN PHILIP MALONEY. The Third Edition of Chafee and Simpson's *Cases on Equity*. Brooklyn: The Foundation Press, Inc., 1951. Pp. lxxiii, 1401. \$8.00.

Fifty years ago Professor Ames published his excellent casebook on Equity Jurisprudence, which is still being used and is a sort of hornbook in many law offices. Hence this 1951 third edition which draws extensively from Ames is introduced as a collateral heir of a famous ancestor. It has been well said that an equity casebook based on Ames is the answer to the needs of the law schools. A glance at the table of contents of the 1951 volume being reviewed shows that it bears a common resemblance to the table of contents found in the fifty year old classic. Many of the cases found in Ames are repeated in this work. The first case in the earlier volume was the classical *J. R. v. M. P.* from the Year Book under the date of 1459. It and other standard cases are found in the latest volume, including some from *Pound's Equitable Relief*, the 2d edition by Chafee, 1930.

The first cases decided from the viewpoint of Chancery are very important because they are extant examples of pristine equity. In the beginning the Chancellor was an ecclesiastic and usually a Bishop of the Catholic Church. He was

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<sup>1</sup> From the Harvard Law School Bulletin.

familiar with the Canon, Roman and Civil law and his decision was for the greater glory of God. It was the soul of man and not the property of man that was the Chancellor's principal concern. As a result of the fusion of law and equity under the Codes and Practice Acts this fundamental principle has been submerged in the technicalities of pleading. Property rights have taken on a legal meaning in Chancery, as a result of the departure from Chancery's original purpose, that has divorced them from their divine nature. "Property is communion with God, through the material world."<sup>1</sup> Many of the modern cases on the equity side of the court show that decisions are based on a materialistic view instead of equity, justice, and good conscience.

This volume differs from the 1946 edition, not only by the addition of about forty cases, but by the omission of the chapters concerning Interpleader, Bills of Peace, and Relief Quia Timet. Fundamentally it was a wise move because those subjects are more appropriately covered in courses on pleading and practice. The additional space enabled the editors to expand the tort problems in equity and keep the book within reasonable size. The topic of Specific Relief against Torts has been emphasized and enlarged. There are 1400 pages which provide the teacher a fertile field to utilize. Some careful readers will note that there is a regrettable lack of emphasis on the fundamental principles in the form of the basic equitable maxims. Included, however, as the concluding case, is the new landmark decision, *United States v. United Mine Workers of America*, 330 U.S. 258 (1947), which evolved from the recent coal strike.

JOHN W. CURRAN\*

*Probation and Parole.* By DAVID DRESSLER. New York: Columbia University Press, 1951. Pp. viii, 228. \$3.25.

Probation and parole officers, judges, lawyers, social workers, and those generally interested in the administration of correctional work will find this a useful reference.

The first part of the book is devoted to a discussion of the more general aspects of probation and parole; the similarity of these services; the nature of probation and parole treatment; the selection of offenders for treatment; and the organization and administration of these services in relation to the court or the paroling authority. The author regards probation and parole as aspects of the larger field of social work, showing that a knowledge of human behavior and modern casework skills are far more necessary than technical law enforcement or legal skills, though the latter play important roles in the work of a probation or parole officer. The purpose of probation or parole is the protection of society through efforts at rehabilitation and redirection of the offender's behavior. The author makes a good case at the same time for the need to distinguish between these two concepts. It is easy to select and classify a large number of factors which appear to have some bearing upon crime causation, such as poverty, family conflict, or mental handicap, but as Mr. Dressler observes, the vast majority of individuals growing up under such handicaps do not become delinquent, so we must look to *motivation* and subtle influences which underly each individual's behavior before we can understand causation in any specific instance.

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<sup>1</sup> Mulford, *The Nation* 95 n. 1 (1870), an interpolation of Brownson, *The American Republic* 15 (1866).