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Book Reviews

CASES ON THE LAW OF CARRIERS

By Ralph Stanley Bauer and Edgar Watkins, New York, Prentice-Hall, Inc., 1928.

Teaching the law of carriers has, in recent years, been a difficult task. The difficulty has been due, in part, to the lack of text books or case books which were suitable for the purpose of instruction. This has been in turn due to the fact that in many schools the laws of carriers is not taught as a separate subject and to the rapid development and change in the law of carriers.

The present book has been prepared with the idea (1) that the law of carriers should be taught separately and not in connection with the law of distinct and unrelated public services; and (2) that the present and not the former law of carriers should be taught.

The book was evidently designed to present materials from which the present law of carriers may be learned, and was not prepared for the purpose of furthering some pet theories of its editors. It does not, as do some case books, present the law of carriers as it existed prior to the enactment of the Interstate Commerce Act and its amendments and of similar state legislation, and then state briefly in footnotes that statutes have changed the law. It sets forth materials from which the present, living law of carriers may be learned. The book contains 537 cases. Many of these are very recent cases and many are decisions of the Supreme Court of the United States, the tribunal in whose hands the ultimate vesting of the law of carriers in a large measure lies. Parts of important federal statutes are inserted in the text whenever needed to make the subject matter clearer, and in addition, the Federal Bill of Lading Act, the Uniform Bill of Lading Act, and a large portion of the Interstate Commerce Act are included in an appendix.

The table of cases, which includes not only the cases reported in the book but also the cases cited either in the text of the cases or in the footnotes, adds greatly to the value of the book. The typographical features of the book are excellent.

The editors state that "so large a portion of the law of carriers is now directly or indirectly affected by statutes that the presentation of an almost strictly common-law treatment of the subject, such as many books have hitherto contained, seems obsolete," and they "have endeavored to present such cases as give the student an accurate idea of the original common law, the common law as modified by statutes, and the effect of the most important statutes governing the subject". Their purpose is praiseworthy and admirably executed. "Much of the subject matter has already stood the test of presenta-

tion in classes, with apparently satisfactory results." We believe that the book as a whole when subjected to such a test will be found eminently satisfactory.

W. H. Hitchler

MARRIAGE LAWS AND DECISIONS IN THE UNITED STATES

By Geoffrey May. New York, Russell Sage Foundation, 1929.
pp. 477.

This book is a digest or summary of the provisions for regulating the creation of the contract of marriage in the forty-eight states and the District of Columbia. It includes, besides the statutes in regard to marriage, over 2,000 court decisions interpreting those laws or expressing the common law in relation to the marriage contract. The author has limited his work to compilation and has refrained from appreciative or critical comment. There is an introduction, intelligible to layment, containing a definition of the common law and its relation to statute law, and a brief outline of the common law relating to the creation of the marriage contract.

The book cannot be called an exhaustive treatise, but is a quick reference to compiled information. To insure ease of reference and simplicity in comparing the law on the subject in the various states, an outline form of treatment is given, identical for each state, under which the laws and decisions of each are classified.

For those who wish a general knowledge of the subject, or who still need to be convinced of the lack of uniformity among the various states, the book is valuable. Practitioners will find it a useful medium through which to reach the primary authorities.

The author must be given full credit and complimented for the vast amount of labor and research involved in the production of the book. As might be expected in a work of this somewhat ambitious magnitude, more or less serious errors have crept in. Instances of these mistakes are found in the section devoted to the statement of the law in Pennsylvania, with which the writer of this review is most familiar.

On page 361, the author states that insanity is ground for divorce in Pennsylvania. This impression was probably gained from the ambiguous and controversial Act of April 18, 1905, P. L. 211, the first provision of which is: "In cases where the husband or wife is a hopeless lunatic or non compos mentis, the Courts of Common Pleas of this Commonwealth are invested with the authority to receive a petition or libel for divorce, etc." Many trial courts construed this statute as providing a new ground for divorce. Finally in *Baughman v. Baughman*, 34 Pa. Super. Ct. 271, (1907), it was

decided that this Act related to procedure only and did not create a new ground for divorce; in other words, that the Act provided that divorce could be granted upon existing grounds in spite of insanity and did not provide for the granting of divorce because of insanity. This construction of the statute was reiterated in *Mintz v. Mintz*, 83 Pa. Super. Ct. 85, (1924).

Because of the decision in *Baughman v. Baughman*, the legislature passed the Act of May 3, 1909, P. L. 390, validating all divorces theretofore erroneously granted under the Act of 1905. A similar validating statute was enacted by the Act of May 13, 1927, P. L. 991.

On page 366, the author correctly states that the marriage of a person having a spouse living at the time is absolutely void and may be so decreed upon action of the innocent or injured party, and that the nullity is absolute regardless of the length of absence of the former spouse so long as the prior marriage was actually subsisting at the time of the subsequent marriage. Strangely, on page 367, the author then states that if the former spouse has been absent for seven years the presumption of death arises and allows the absentee's spouse validly to contract another marriage. For this proposition three cases are cited: *O'Keefe v. O'Keefe*, 15 C. C. 88; *Miller v. Jacobs*, 18 Monty. L. R. 185; *Wilhelm's Estate*, 23 Dist. 757. In none of these cases was the validity of such a second marriage raised. In the first case the libellant sued the respondent for divorce under the Act of April 14, 1859 on the ground that the respondent had a spouse living at the time of her marriage to the libellant. The question was whether or not the libellant was such an innocent and injured party as could sue for a divorce under the Act of 1859. At the time of his marriage to the respondent the former knew of the latter's previous marriage but the latter's spouse had been absent for more than seven years and it was held therefore, that at the time of his marriage to the respondent, the libellant was an innocent and injured party.

In the second case the plaintiff sued the defendant for breach of promise. It was held that the former marriage of the plaintiff to the person unheard of for more than seven years did not prevent the validity of the defendant's promise to marry.

In the last case the testator devised property to his son for life and upon the death of the son the remainder to his widow. After the testator's death the son married a woman who had formerly been married but whose former spouse had been unheard of for thirteen years. Subsequently the son died and it was held that until the presumption of the death of the widow's former husband was overcome that she was entitled to the remainder as devised in the will.

Two or three other similar inaccuracies were noted, discussion of which is prohibited by lack of space.

Fred S. Reese