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Park's Cases on Mortgages

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PARK'S CASES ON MORTGAGES*

This recent addition to the American Case-book Series should be distinctly welcome, as practically all existing case-books on the subject of mortgages have become more or less antiquated. However, the present book differs quite radically from most of its predecessors. In the first place there has been an attempt to select, for the most part, modern cases from various American jurisdictions. The collection contains comparatively few English cases and still fewer of the famous decisions—the “landmarks of the law”—on this subject. In other words the editor's attempt has been primarily to give an outline of the present state of the law and to treat the practical aspects of the subject, without giving much space to its historical development. This is probably a desirable change since the tendency has usually been to give undue weight to the historical development of the law of mortgage (a development which is undoubtedly interesting and instructive but which has, of course, ceased to have any great bearing on the present state of the law). Yet the present collection probably contains enough historical matter to retain the pedagogical advantages arising from limited consideration of the historical aspects of the subject, without unduly burdening the student.

Another departure from the conventional treatment is in the arrangement of the book, which differs quite radically from that of prior collections of cases in common use. The most important change of arrangement is the fact that the subject of priorities has been given very early consideration. The cases concerning the clogging of the equity of redemption and similar matters are also put very early in the book even before the chapter on “Obligations which May be Secured by a Mortgage,” although the chapter on redemption is put very late in the book. This is not the only place where an apparently homogenous subdivision of the subject is split between two or more chapters; for instance, the subject of priorities which has previously been commented on, is in the first instance treated upon general principles and then its particular application to the law of mortgages included under these other topics. The result is that, as the editor himself suggests, the whole chapter on “General Principles Covering Priorities” can be omitted from the class room work, without disturbing the continuity of the subject-matter of the course, though this would ordinarily be unwise.

On the other hand there is some tendency to include under one heading various topics which other case-books have generally treated separately. For example, questions of rights to possession, effect of waste, and all questions with regard to accounting have been included in one chapter entitled “The Rights and Duties of the Parties Before Foreclosure”. Foreclosure itself is taken up in the last chapter even subsequent to the subject of marshalling assets.

*Cases on the Law of Mortgages. By James L. Park. St. Paul, West Publishing Co., 1926, pp. xiii, 587.

It is rather difficult, in the absence of practical experience with the book, to comment upon the desirability of these rather far-reaching changes in arrangement. As already intimated the arrangement is probably somewhat less logical than the conventional one but the purpose is avowedly pedagogical, and may well be justified on that ground. A reading of the cases in order gives the impression that the subject is unfolded in a way which should be readily grasped by the student and if that is so, the book will prove satisfactory, no matter how illogical from the strictly theoretical standpoint its arrangement may be.

There is included at the end a copy of the final draft of the Uniform Mortgage Act which has been recommended for passage by the legislatures of the various states.

The foot notes are excellent, and develop adequately minor matters which it was considered undesirable to cover by cases reprinted at length. At the same time the editor avoided the difficulty which some compilers have fallen into, of making the foot notes too elaborate by covering therein important subjects which should be developed by cases. The decision as to where the line is to be drawn between cases to be reprinted and foot note citations is of course a difficult question of judgment as to which no two compilers are likely to agree, but it is believed that the editor of the present collection has been wise in most of his decisions in this matter and likewise successful in his compilation and summary of the cases relegated to the foot notes.

In the reviewer's opinion, the cases are well selected and the presentation of the subject is clear and pedagogically sound. The book should therefore be a satisfactory text for the classroom study of its subject, and will, no doubt, be widely adopted for that purpose.

ROBERT C. BROWN.