



1952

Book Reviews

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Recommended Citation

Porter, E. William and Matthews, Paul C. (1952) "Book Reviews," *North Dakota Law Review*. Vol. 28 : No. 4 , Article 8.

Available at: <https://commons.und.edu/ndlr/vol28/iss4/8>

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BOOK REVIEWS

GUILTY OR NOT GUILTY? By Francis X. Busch, Indianapolis: Bobbs-Merrill Company, Inc., 1952. Pp. ix, 287. \$3.50.

PRISONERS AT THE BAR, By Francis X. Busch, Indianapolis: Bobbs-Merrill Company, Inc., 1952. Pp. ix, 288. \$3.50.

Francis X. Busch, long noted as a distinguished trial lawyer, and author of *Law and Tactics in Jury Trials*, has chosen eight of the most notable twentieth century cases as the contents of his dual effort. *Guilty or Not Guilty?* contains the trials of Leo Frank, for the murder of Mary Phagan; D. C. Stevenson, for the murder of Madge Oberholtzer; Samuel Insull, for the use of the mails to defraud; and Alger Hiss for perjury. *Prisoners at the Bar* discusses the trials of William Haywood, for the murder of Governor Steunenberg; Sacco and Vanzetti, for the murder of Berardelli and Parmenter; Loeb and Leopold, for the murder of Bobbie Franks; and Bruno Hauptmann, for the murder of Charles Lindbergh, Jr.

In each case, with the exception of the Steunenberg case, Mr. Busch has obtained his material through meticulous examination of the stenographic trial record or the printed appeal record. The author's trial experience is readily apparent in his ability to reduce the voluminous trial records to the essential facts and basic issues of each case. A simple but wholly successful pattern has been adopted in the preparation of each account; (1) a brief reference to the background of the personalities involved, (2) a clear and concise narration of the trial, with its ultimate outcome, (3) an assessment of the case, with attending questions interposed to aid the reader in formulating his opinion of the case.

Illustrative of the author's ability to rationally question a decision is the Leo Frank case. Frank had been convicted of murder. Due to the grave doubt exhibited by dissenting justices of the Georgia Supreme Court and the United States Supreme Court, as to the fairness of the defendant's trial, the Governor of Georgia commuted Frank's sentence to life imprisonment. This action aroused many anti-Frank demonstrations which led to his forcible seizure and subsequent lynching. The author, in retrospect, states, "Was Frank guilty? After one has read the record and all of the available literature on the case, the most one can say is: He may have been guilty, and he may have been innocent . . . Nevertheless from the present perspective a conscientious reader of the

record puts it down with the uncertain and troubled feeling that Frank's guilt was not proved beyond a reasonable doubt and that he may have been the victim of one of the most flagrant miscarriages of justice recorded in American criminal annals."

The eight cases, above noted, are highly recommended for both the lawyer and the layman. Mr. Busch, in his presentation, has removed the legalistic shroud which often bedevils the lay reader. Each case averages seventy pages in length, which in itself affords convenience to the evening reader. Without question the author has performed an invaluable service to the Bar and the public, by producing legible and accurate accounts of cases famous in our time.

WILLIAM E. PORTER.

STATE AND LOCAL TAXATION, Cases and Materials

By Jerome Hellerstein, New York: Prentice-Hall, Inc. 1952
Pp. xxiii, 871.

In the preface of his book the author stresses the fact that in the past too much emphasis has been placed on the federal constitutional aspects of State and Local Taxation. However, he has not made the mistake of eliminating such material. He has, instead, recognized the existence of such over emphasis by including the material on Due Process Clauses and the other restrictive clauses of the Federal constitution in such a way that it can be readily omitted, if, in the judgment of the instructor, such material has been dealt with adequately in other courses. The cases selected by the author with respect to this federal aspect of State and Local Taxation, have the added virtue of being limited to the more recent decisions.

There is pointed out in the preface, that a subject like State and Local Taxation cannot be well taught without having at hand, for the use of the students, the taxing statutes and the regulations of the state. The author, therefore, plans to make available for use with his casebook, a booklet containing selected taxing statutes and regulations of the state in which each law school using his casebook is located, and, where desired by the instructor, to provide such material for various states individually.

The omission of materials on the general problems arising in determining gross income, gross estate, net income, or net estate

in the treatment of state death taxes, is justified by the author on the theory that such problems are dealt with adequately in the courses devoted to federal estate taxes and federal income taxes. Such materials as have been included in those areas have been generally restricted by the author to the issues peculiar to state taxes, e.g. taxation of non residents, and taxability of intangibles having a tie with more than one state.

After covering the development of the State and Local Tax System, in Part I of the book, the author takes up in the order set forth: **CERTAIN CONSTITUTIONAL LIMITATIONS ON STATE AND LOCAL TAXATION** which considers the uniformity of equality provisions of state constitutions, and the federal constitutional restrictions found in the interstate commerce clause, the imports and exports provision, and the federal constitution's guaranty of the equal protection of the laws; **BUSINESS TAXES**; including such distinctive types of state and local taxation as corporate franchise, capital stock, business income taxes, sales and use taxes, and also documentary stamp taxes and mortgage recording taxes; **DUE PROCESS CLAUSE RESTRICTIONS ON STATE TAXATION** with respect to the taxation of tangible and intangible property, and the taxation of income of residents and non-residents; **DEATH, GIFT, AND PERSONAL INCOME TAXES** which are limited in scope to levies of such taxes by the states; **AD VALOREM PROPERTY TAXES** from the angle of real property, with consideration, among other things, of separation of interest, assessment, valuation and tax rate limits, and personal property, both tangible and intangible, and emphasis upon location of property on tax day, temporary conversion to exempt property on the eve of tax day, valuation and exemptions; **EXEMPTIONS FROM TAXATION** having to do with education, philanthropic, and religious organizations, and public property, income, and activities; **TAX PROCEDURES** which is devoted to the assessment and collection, and the taxpayers' judicial remedies.

Throughout the entire book are scattered valuable text material, capable analyses and comments, and well chosen law review and other bibliographical material. The notes following many of the principal cases are valuable as the basis for classroom discussion. Frequent references in the book to economic materials indicate a recognition that economic forces have a strong bearing on the subject of taxation.

The author has made a noteworthy contribution to the teach-

ing materials on state and local taxation, and his casebook is unquestionably worthy of serious consideration by one teaching in the field of taxation.

PAUL C. MATTHEWS

BOOKS RECEIVED

- A FIRST BOOK ON ANGLO-AMERICAN LAW, By Charles H. Kinnane. Indianapolis: Bobbs-Merrill Company, Inc., 1952, Pp. x, 810 \$8.50.
- LAW OF HOMICIDE, by Roy Moreland, Indianapolis: Bobbs-Merrill Company, Inc., 1952 Pp. viii, 338.
- PLEADING AND JOINDER, By W. W. Blume and J. W. Reed. New York: Prentice-Hall, 1952, Pp. xviii, 684. \$8.00.
- PROBLEMS OF THE FAMILY, By Fowler V. Harper. Indianapolis: Bobbs-Merrill Company Inc., 1952. Pp. x, 806. \$9.00.
- THEFT, LAW AND SOCIETY, By Jerome Hall. Indianapolis: Bobbs-Merrill Company Inc., 1952. Pp. xix, 398.

NOTICE OF BOOKS FOR SALE

The following books are offered for sale by Mrs. J. L. Cashel, Grafton, North Dakota. Any offer should be addressed to Mrs. Cashel.

L.R.A. (New Series): 52 Volumes, 20 Annual Volumes.

L.R.A. Digest: 10 Volumes.

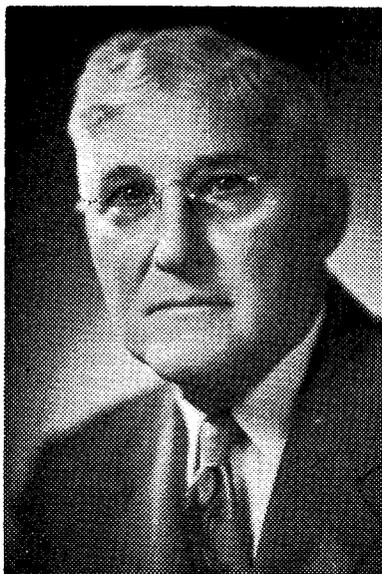
English and American Annotated Cases: 21 Volumes and Digest.

N.D. State Reports: Volumes 1-46 inclusive.

FOR SALE

For sale: City Charter and Ordinances, City of Grand Forks, (Herald Printing House, 1888); Charter and Ordinances, City of Grand Forks (Herald Printers and Binders, 1894); Laws of North Dakota, 1901-1915 inclusive; Compiled Laws of North Dakota (1913), two volumes; Revised Codes of North Dakota, 1899; Revised Codes of North Dakota, 1905; Hill's Dakota Digest Annotated (1903); Volume II, Hill's Digest Annotated (1911); Vol. III, Hill's Dakota Digest Annotated (1918). Attorneys interested in any of the above volumes should contact Guesmer, Carson, MacGregor & Clifford, 1218-1232 Roanoke Building, Minneapolis 2, Minn.

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1952-1953



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