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Book Review: Law of Cadavers

Eugene F. Kobey

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BOOK REVIEWS

Law of Cadavers, Second Edition. By Percival E. Jackson. Prentice-Hall, New York, 1950 Pp. lxxxvii, 734. \$12.50.

Mr. Jackson concerns himself with demonstrating that there is and should be a Law of Cadavers, independent of other branches of the law. He gives the history of burials and other methods of disposition from the Paleolithic era before 30,000 B.C. through ancient customs to present day methods in the United States. The disposition of dead bodies is considered under three headings: (1) the public interest that demands a decent burial, (2) the rights of the departed who have power of disposition of their bodies, and (3) the privileges, powers, and duties of the survivors about which many controversies arise with third persons who have an interest in the burial.

The common law of England gives very little on the rules of burial because burial was not subject to common law jurisdiction. The common law controlled property rights, and the church acknowledged authority over the graveyard and offices of burial, because the common law courts held that there were no private property rights in a dead body.

Mr. Jackson says that our courts failed to appreciate the inapplicability of common law doctrines. They sought assistance in common law decisions in the law of contracts and of real property. The results defy the syllogisms of logic and often the honesty of reasoning. A branch of law is here created in consonance with modern, emotional, social, and economic basis. The author attempts to formulate conclusions with the aid of reason.

The book discusses actions and proceedings respecting dead bodies, and discusses the control and possession of dead bodies before and after burial. The author goes into a long complete discussion of cemeteries with regard to nature, regulation, creation; and rights, powers, and obligations respecting them.

Approximately 2,750 cases are cited by the author in his collection and statements of rules in the different jurisdictions. Where precedent is lacking, a rule is formulated determined from sources of prevailing custom and habitual practice.

Mr. Jackson suggests that for the working lawyer dealing with the realistic judge, he has sought to provide rules which seem logical and reasonable and the available precedent in each state. The book has much surplus material, but does cite the prevailing rules in the different jurisdictions. Statutes are tabled in a special index and many useful forms are set out regarding burial and the Law of Cadavers.

EUGENE F. KOBEY