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Book Review: Wisconsin Annotations to the Restatement of the Law of Trusts

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BOOK REVIEW

Wisconsin Annotations to the Restatement of the Law of Trusts.
Prepared by Edwin Conrad under the Auspices of the Wisconsin State
Bar Association. American Law Institute, St. Paul, Minn. 1941.
Pp. 222. Pocket part form, \$3; bound, \$4.

The statements with reference to the Wisconsin cases cited follow the Restatement section numbers, and are in the main correct. However, several instances of slight inaccuracy and lack of clarity are present in the work. An illustration of lack of clarity is the statement under section 16 that "a partial assignee may not maintain an action at law against the debtor without the latter's consent." The case cited holds that consent to the assignment and not to the maintenance of the action is what is required. This undoubtedly is what is meant by the statement in the annotation. An illustration of inaccuracy is found in section 5 where it is stated that "a gratuitous bailee is only liable for slight negligence." The case cited holds that the duties on such a bailee are of the mildest type, and, although the case holds him for larceny as bailee, it does not mention slight negligence. Perhaps the statement should be regarded in the category of typographical errors, but this sort of thing detracts from the confidence which the user desires to repose in a work of this kind. A rather misleading statement is made in section 36, where the case of *Estate of Johnson*, 186 Wis. 599, is cited to the effect that a beneficiary may renounce a gift. While the opinion takes it for granted that a beneficiary may renounce a gift, it holds that the instrument involved in the case amounted to an assignment of his share, that it was taxable to him as heir and went to his assignee subject to this burden. The court recognized that gifts directly to the assignee would have been tax free in this instance, because it was a charitable corporation.

Treatment illustrating incompleteness is found in the annotations to section 43. The cases on the rights of the creditors of the trustee who voluntarily executes a parol trust in real property are cited to the effect that the trust thus executed takes priority over the lien of creditors obtained before the trust was consummated. There is no mention of section 231.20, Wis. STAT., which protects creditors of the trustee subsequent to the conveyance by which he holds where the trust is not declared in it. This section partially changes the rule of *Blaha v. Borgman*, 142 Wis. 43, which is cited.

What has been said of this work is not offered in the spirit of adverse criticism, but only as an indication that further research may well be made, after using the cases cited as a starting point. No effort has been made by the reviewer to check all of the cases cited in each section, but in the main they seem to be reliable. The book evinces a great deal of effort, and the result is as good as that found in the average modern annotation or textbook. No one expects that a work of this kind, with a very limited demand, will be monumental. It is well worth the price asked.

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