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Book Review: Restatement of the Law of Contracts, by American Law Institute

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Handbook of the Law of Evidence, By John Jay McKelvey, A.M., LL.B., of the New York Bar. 1932. Fourth edition. One volume. West Publishing Company, St. Paul, Minn.

This volume is a compilation of progressive trends in the law of Evidence, relating especially to the idea of establishing sound principles rather than relying on precedent.

Judicial Notice and Burden of Proof have been restated and revised to provide greater clearness and finer distinctions. The author inserts a discussion of the use of confessions by third parties on trial of the accused, under the important subject of Admissions and Confessions. An interesting distinction is made between character and reputation, with the attempt to point out the proper place of each.

Modern decisions liberalizing the exceptions to the Hearsay Rule, the Parol Evidence Rule, and statements indicating intent, mental state or physical condition, are given full treatment in the notes and explanations.

A new development in the field of *Res Gestae* is referred to by showing the judicial trend to use that topic as a vehicle for admitting a great deal of testimony which would otherwise be excluded.

This book is recommended as valuable for collateral study in connection with the case book, for its clear explanation of difficult portions, its new treatment of settled conceptions, and its inclusion of up-to-date material.

WILLIS E. LANG*

Restatement of the Law of Contracts, By American Law Institute, May 6, 1932. Two volumes. American Law Publishers Institute, St. Paul, Minn.

To help the practicing attorney, the law teacher and the law student beat a straight path through the labyrinth of legal decisions might sum up the purpose of publishing these two volumes of the American Law Institute. The word "restatement" does not aptly describe the purpose of those leading jurists, law teachers, and practitioners whose combined work has made possible an orderly arrangement of the leading and fundamental common law principles of contracts. The work of the Institute is not so much "restatement" as it is "rearrangement." If one should try to teach fundamental contract principles without helping the student arrange them in some orderly and systematic manner, endless confusion would result not only for the student but also for the teacher. To have the student read hundreds of conflicting decisions in a casebook without the aids of collateral readings, texts, or dictated classifications of cases leaves him with a feeling of mystery as to the fundamental principles of law rather than a feeling that he has obtained a clear and concise arrangement of legal principles which have evolved from repeated consideration of similar facts by courts.

The *Restatement of the Law of Contracts* will be another aid for the student in law school to be used along with his casebook in contracts. Likewise these volumes will permit the practicing attorney to quickly refresh his recollection on foundation principles of contract law before attacking some technical and special problem that confronts him in his practice. The sponsors of these books do not claim that the material presented has the authority of judicial

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precedent but it does have the authority of the Institute which is worthy of great respect. No attempt is made to have the matter restated enacted by the legislature.

An examination of these volumes will show that they are not texts or digests or treatises. The matter restated is found in black-faced type, illustrations and comments together with special notes follow. The workers in the Institute have analyzed, compared and reconciled, if possible, decisions of all courts and then announced what they believe to be the fundamental principle. Annotations for the various states are in the course of preparation and will soon be available.

There is nothing perfect. Perhaps, improvement could be made in the style used in restating the material. Divisions and subdivisions are apt to be confusing if there are too many. More of a text-book style of treatment would cure this defect—if it is one. Citations after the illustrations would be appreciated. But these are minor points. The Restatement idea is new and startling in these modern times. New and startling ideas grow in favor slowly. These books will aid those who use them intelligently. The authors deserve applause for the assistance their work will give.

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