The Case Method of Studying Law

Ben G. Slater
BOOK REVIEWS

Mariash on Sales. By Irving Mariash. Published by Matthew Bender and Co., Inc. Price $10.00; pp. 877.

The law of Sales had its inception thousands of years ago, when in early civilization, barter was an important factor. During the ages, as commerce and transportation progressed, the law of Sales underwent many changes and increased in importance. However, there were many inconsistent laws and decisions, and not until the Uniform Sales Act was passed was there any attempt at regularity or consistancies in enactments of the law in the various states. But even with the Uniform Act, there remained room for varied interpretation, and realizing this, Mr. Mariash published his treatise on “Sales,” which covers not only the common law on Sales, and the Uniform Act, but also the latest enactments and decisions of the thirty states that adopted the act. Mr. Mariash used the Uniform Act as a framework for his book and has as each chapter, a section of the act, in which he cites the common law, as well as the latest decisions of the various states in point. This arrangement of the book enables one to find a straightforward statement of the governing rules, and at the same time, the necessary references to decisions which have recently been decided. In addition to the full treatment of the law of Sales, the Appendix of the book contains the complete Uniform Acts on Sales, Sale of Goods, Conditional Sales, Bill of Lading Act, and also important regulations concerning foreign credits and domestic trade usages.

JESSE HABUSH


Due to the fact that American law students have almost universally adopted the case method of studying law as a condition precedent to acquiring a legal education, it is rather surprising to find that system indicted and placed on trial, with Dr. Landman as the prosecuting attorney. In the book which the author has put forth, he criticizes, with subtle veiled vehemence, the Langdellian method of studying law from printed judicial opinions, and then constructively offers the Problem Method of studying law as its superior, and hence, its successor.

Dr. Landman's proffered plan tends to revolutionize the present means of acquiring legal knowledge, by forcing the student to use scientific thinking formulas as a basis for inductive thought on specially prepared problems of law, rather than allowing reliance on cut and dried rules which have not the elasticity to include in their confines the social, economic, political, and philosophical factors which, he points out, must necessarily be taken into consideration in legal decisions, according to the needs of the individual community, and cannot be governed by arbitrary rules of law which are handed down by judges in other states or countries in conformity with the particular circumstances and needs of their own territory. In a word, the author puts the study of the law on a socio-legal basis, which requires it to adapt itself to principles necessary for the administration of justice in each separate jurisdiction.
A particularly well reasoned chapter is included on the analysis and science of thought, which alone makes the treatise well worth the time spent in reading it.

The seriousness of purpose, and the undeniably logical arguments presented in favor of the Problem Method of studying law will undoubtedly be food for thought for all instructors and students, and may exert a startling influence on the study of law in the future.

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This is a good book, and decidedly encouraging to the law student, for it depicts the successful career of a man who, in the words of his biographer, “was never very much of a lawyer,” but was nevertheless the outstanding British criminal barrister for almost forty years. Though his knowledge of the law might have appeared shallow, he garnered an amazing list of victories, due almost entirely to his keenness in analyzing the emotional values in the case; in dramatizing the evidence presented, and in reasoning with, and not at, the jurors. Popularly termed “the thirteenth juror,” his was the power to make himself as one with the jury, and to gain freedom for clients in cases given up as lost. Often his entire defense would rest on the cornerstone of the prosecution’s case; and this ability to establish the most damaging evidence in a favorable light did much to secure noted acquittals. The book relates his court exploits in detail, and the outstanding cases in which he participated are described at length. Legal methods in England are depicted, struggles attending a beginner’s start in practice are traced, the power of newspapers in trying cases and in formulating public opinion prior to the trial is shown, and thoughts dominating presiding judges are often made clear. Leading figures in English political and social life figure prominently. The entire biography can be briefly summed up as a vigorous legal commentary on the times. To one interested in crime, in criminal law, and in legal institutions, the book will prove interesting.

Ronald A. Padway


This work presents to the practicing attorney and to students and instructors of the Law, a handbook of the principles of the law and practice in Bankruptcy. Its purpose is to give the reader a guide to the latest, most authoritative, and most interesting decisions on this subject.

It is important to note that the bankruptcy law passed by Congress in 1898 which constitutes an important, and albeit permanent, piece of the system of federal legislation has been changed by amendatory acts which have materially affected both the principles of substantive law and procedure in bankruptcy cases.

Hence the effect of these statutes is all-important for the alert student of the Bankruptcy Law.

Black on Bankruptcy shows how the Bankruptcy Law of 1898 was amended by Act May 27, 1926, including those relating to bankruptcy courts, acts con-