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Cases on Business Law

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BOOK REVIEWS


Taking for granted certain assumptions one finds in Professors Ayer and Ashley’s Cases on Business Law a very comprehensive coverage of the subject as it is taught in most institutions offering such courses. One finds practically all of those cases which have long been considered as leading decisions on the subjects involved, as well as many newer cases which shed additional light thereon. Upon points of law which are generally considered of minor importance lengthy case material has been omitted and in its place there are substituted concise texts, in some instances amounting to little more than expanded definitions. All this lends to the book an air of thoroughness and authenticity which it well merits.

With the complete omission of a course in business law from the curriculum of some of the leading business schools combined with a similar omission from the curricula of most law schools, the question of the inherent usefulness of such a course presses for answer. Since there are a large number of other schools including high schools, collegiate business schools, colleges of engineering, and arts and science colleges with business courses, which do give such a course, the controversy at hand can be waved aside as not being of immediate moment. Before a true appraisal of a text can be adequately made, however, the aims of such courses where they are given should be weighed and against these should be placed the text promising to meet these aims. It should be asked, in short, what is the purpose of a course in business law?

Strangely enough the question is not answered by the commonly used texts in this field, numbering around fifteen. If the results of such a study are to be purely cultural, and there are many cultural qualities contained in such subjects, then the specific method of presenting the problem becomes subservient to the teachers’ preference. While not denying that there are cultural elements in the study of business law, the professional schools, nevertheless, would hasten to point out that they were seeking certain values beyond the cultural and approaching the practical. It has even been crudely stated that knowledge of business law serves as a tool of the business man or engineer, although no one would be so foolish as to claim that such training would substitute for competent legal advice. Actually such a course
should aim to develop in the mind of the professional student an awareness of the legal difficulties which may beset him in the pursuit of any given course of action.

In the Preface to the First Edition, reprinted in the Revised Edition, the authors state: "It is desirable that the student acquire the ability to select and analyze the problem in question from a maze of facts just as he must do in life." The error in this approach rests with the fact that the maze of data from which the student selects the pertinent points is legal in nature, and is not economic. If one should use this text or another using a similar case method approach he would be forced to delve through paragraph after paragraph in which the judge is analyzing the actions of the plaintiff and defendant. Once the judge arrives at the correct statement of the issues he states the points of law with his decision. The reasoning which is applied to the problems in each case springs from the logic of the court and not from that of the business office. The student will find that he wastes much time and effort to discover a point of law which any text-book could give him in a few sentences.

It can not be claimed that the aptitudes acquired by the student in analyzing legal cases can be transferred to the analysis of business problems with any degree of success; if this were not so lawyers or doctors who receive similar training in elimination of extraneous facts from the central problem, would be better business men. To be most useful to the student the maze of facts given him should be found in the field of the phenomenon with which he works; to the business student should be given business problems which may have legal inferences. Professors Ayer and Ashley are guilty of using a method which has been approved generally as one suitable for the training of lawyers, for the training of business men; even more condemning is the use of identical materials presented in much the same manner without considering the difference in aims in the two courses of training.

Probably the greatest weakness of the common approach to the teaching of business law is that the student finishes with a mass of rules of law most of which are only partially true or true only under certain conditions. A specialist in law spends months and years upon subjects which are covered in such a course in a few weeks. The student has developed a false confidence in his ability to cope with legal problems when he should have developed an ability to foresee legal entanglements which arise in the conduct
of his business affairs. This partial understanding of the law might well prove to be dangerous as well as useless. A business man should be trained to conduct his business in such a manner that he will avoid court actions, while any lawyer can tell him what he must do once he has been brought into court.

The objections then to this case-book are not that it does not represent sound legal doctrine nor the most recent decisions on the subjects covered. The difficulties in the use of the book arise solely from its method of presenting the subject matter. The business student wants from such a book solely the points of law and a text can give this more readily. In attempting to give the student a training in analysis the student is given the reasoning of judges applied to past controversies and not the reasoning which a business man would use in facing a problem involving legal aspects. It is true, moreover, that many of the legal problems which beset the modern business man arise quite as much from statutory enactments of the type of state retail price maintenance laws, sales tax laws, and chain store levies of which the book makes no mention, as from the more commonly known court decisions.

The approach to the teaching of business law suggested herein has never been seriously attempted, and unless one cares to pioneer in this field he must be content with the present books. Since the most good that a student can obtain from such a course is a general understanding of the attitude of courts toward certain situations it would seem that the best method of acquiring this would be found in an orderly, organized text treatise which attempts to combine logic of the courts with the logic of the business world.

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This research report deals with the effectiveness of enabling acts, zoning ordinances, master plans, official maps and other legal devices in promoting the economical widening of old city streets and the opening of new streets.