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Real Covenants and Other Interests Which "Run With the Land"

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BOOK REVIEWS

REAL COVENANTS AND OTHER INTERESTS WHICH "RUN WITH THE LAND." By Charles E. Clark. Chicago: Callaghan and Company. 1929. pp. xxv, 201.

This interesting little book, the practicing lawyer who is searching for sound and valuable conceptions instead of mere collections of cases, may make use of with great benefit. It is largely made up of articles the author has written and published since 1921, and with which many law teachers are doubtless familiar. There are some changes in this material and there has been added to the collection of articles an introductory chapter and a chapter on Rents. The author in his introductory chapter points out that the phrase "interests running with the land" may be criticised since all legal interests in land are intangible, yet that this phrase has been used to make certain interests assignable by making them pass with so-called possessory interests in land. The book covers licenses, real covenants, profits and easements, including party wall agreements, equitable restrictions on land and rents. The portions dealing with licenses, real covenants and equitable restrictions on land seem particularly commendable. The limited field covered by this book is bristling with problems which have given rise to much judicial conflict and many controversies among legal writers. The author's analyses of these situations and his comments and suggestions the lawyer might use with profit if occasion should arise in his practice. Among the various controverted matters discussed at some length are the meaning of "privity of estate" as applied to real covenants, the doctrine of *Rerick v. Kern*, the doctrine of *Webb v. Russell* and the doctrine of *Wood v. Leadbitter* compared with that of *Hurst v. Motion Pictures*. The author prefers the cases which hold easements in gross non-assignable and he maintains his argument with seemingly some show of prejudice, the only place in the work which gives rise to such suspicion. The railroad right of way cases are dismissed as being cases involving more than easements in gross while *Standard Oil Company v. Buchi* is termed a harsh decision, seemingly because the author disagrees with the court as to the character of the right of way involved. He considers it a grant of a way for one pipe line only, while the court held it was a grant of the right to lay pipe line within a strip ten feet wide. A fair interpretation would seem to favor the court's construction. As to other matters discussed at length, the arguments both ways seem to the writer to be

stated impartially though the author frequently expresses his preference and gives reasons for it. The various situations which arise out of party wall agreements are analyzed and ably discussed even to the possible application of the Rule Against Perpetuities to certain situations. On the whole the writer is very favorably impressed and desires to repeat that this is a most valuable little book for a practitioner, though it will probably be appreciated at its true worth only by law instructors.

—JAMES W. SIMONTON.

