

resent an interest in the corporation, and their use enables the corporation to raise money for its business. The former of these functions—the rights, powers, privileges, and liabilities of an owner of some interest in the corporation—perhaps better belongs to the field of business associations, the latter to the field of credit. In the suggested course on Credit, then, stocks and bonds would be considered with reference to their legal advantages and disadvantages as credit instruments as compared with bills, notes, and checks, particularly from the holder's point of view.

It has already been indicated that the present volume is up-to-date, and is very well suited for the customary presentation of the course in Bills and Notes. To what extent could it be used to furnish material for such a course as that which is here briefly outlined? So far as arrangement is concerned, it seems quite suitable. Whatever may be the peculiar characteristics of a bill or a note as compared with other instruments used for a similar purpose, the best way to approach the subject seems to be through an understanding first of all of the distinctive form of the negotiable instrument and of the methods used in transferring it to another. Later in the course, in considering the holder in due course, the rights, powers, and privileges of a holder of other instruments might well be discussed. For such a discussion, no material is here provided. Finally, the liabilities of the different parties to the instrument might be compared briefly with those of parties to the other credit instruments on the basis of the more extended discussion of their functions in the other law school courses mentioned. Although such a credit course as that suggested involves no very great addition of material to that in the present casebook, it involves a considerable change in point of view, that is, in the attempt to give the student a new and perhaps more useful *focus* for his work in this field.

Although the usefulness of any casebook depends upon its adaptability to the method of attack upon the subject which the teacher prefers, the present volume provides a good arrangement of material for either of the approaches to Bills and Notes which have been undertaken or suggested. Business men are evolving new and more complex credit devices for the exigencies arising in the purchase and sale of the newer commodities; cases regarding these will doubtless concern the courts in the future. Doubtless casebooks will some day appear, based on a functional approach to the credit field, with full collections of cases on the various topics which should be related therein. But at least until that day, the present casebook will, it is believed, prove very satisfactory, as a sound selection of cases covering the groundwork of the field of Bills and Notes.

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*Democracy's International Law.* By Jackson H. Ralston. Washington, John Byrne & Company, 1922. pp. 165.

This is essentially a book of protest against what is called international law, which the author finds to be largely the embodiment of immorality and anti-social practices akin to anarchy. The author is no tyro in the field of knowledge which he so scathingly criticizes. With a respected professional connection with international law, as American Agent in the well-known Pious Fund Case, as the Umpire of the Italian-Venezuelan Mixed Claims Commission and the author of some of its most learned awards, as a practitioner of many years standing, his views cannot be dismissed as the utterances of the impractical and misinformed reformer. His attack is directed against the irresponsible State, which he finds the subject of international law, and the so-called legalization of what he regards as the lawlessness of its acts of aggression. He points out

that what is called robbery and murder in all systems of private law is seemingly ennobled as the fulfillment of national aspirations when undertaken by a group sufficiently large to be called a nation. His protest is aimed against a system which could legalize such practices and dignify results flowing from them by the name of law. In his view all the so-called laws of war, which is the natural culmination of the international state of unrestrained irresponsibility, are merely lawless practices which it is blasphemy to call law. He finds "true international law" in those rules of right living which should govern nations no less than individuals and demands of the votaries of international law a ministration of these principles and rules. He finds, for example, in the division of China into spheres of influence among the larger Powers a violation of a "natural international law of nations," the punishment for which is "absolutely certain." He manifests his lawyer's respect for sanctions by essaying to show that violations of these "fundamental" laws—which we would characterize as rules of morality—meet just retribution, eventually if not at once, and he cites the ultimate destruction of great empires. He attacks the conception of "vital interests," independence and national honor as deceptive excuses for the irresponsible State to exert its uncontrolled will upon less fortunate or weaker nations. He points out the futility of international courts as an agency for peace, because the underlying principles which they accept as law are themselves the negation of law. He says, for example, that the following "vicious propositions" would today "be accepted by a court":

"A state is a non-moral creation, only to be held responsible to others for its actions by its own consent.

"A state possesses such a right of sovereignty as enables it by force if it can to impose its will on other states without being judicially accused of wrong for so doing.

"A state must judge for itself what affects its own honor, vital interests or independence.

"A state, after a successful war, has a right to impose its will upon the vanquished.

"A state, provided it has sufficient power, may possess interests within the jurisdiction of another state and dictate the management of its affairs.

"A state may acquire from an alien conqueror complete jurisdiction over a vanquished people, violence creating title."

Much as we might be disposed to agree with the criticism of a system which necessarily invites war as the *ultima ratio* and then legalizes its consequences, it is not believed that international law is the proper focus of the criticism. Law is a science which merely follows the facts, historical, social, and economic, and records that which society and societal agents accept and enforce as binding. Much of this, even in municipal law, is essentially immoral, as for example that the State can do no legal wrong and cannot be sued. Yet so long as societal agents enforce that rule, it must be regarded as law. Mr. Ralston's objection is more properly directed against an international political and economic system which embodies so many practices and results that are in domestic affairs regarded as illegal, immoral, or anarchic, but which legally are still privileged internationally; yet even temporary peace seems preferable to permanent war, and for this reason international law has found it necessary to give legal effect to the practical consequences of facts. It is quite true that a lack of international organization, with certain *mores* of immorality, has permitted nations to be their own plaintiffs, judges and sheriffs, with the result that jungle law is perpetuated. The victory of law over violence has been slow even in municipal law. But, in so far as belligerent relations are concerned, the cure lies in the direction of a change of the *mores* by education of public opinion to the realization that the present system of international unfair competition not only leads inevitably to war but that with growing effectiveness of the means of destruction the very

existence of the human race is at stake. Thoughtful men realize that it is now a race between education in the interest of general self-preservation, and general destruction. But Mr. Ralston's criticisms of law are reminiscent of the contests waged by the school of "natural law" which also had a theory that only that which was "fundamentally right" was law. This, it is believed, confuses ethics with law. Moreover, while alleged violations of this "fundamental" law can frequently be shown to be disastrous to the violator, it by no means follows that unjust aggression always meets its just reward. On the contrary, a glance at the empires of the world might show that aggression seems to pay; and even if in due time these empires may collapse from internal or external causes it would not be provable that this is a direct consequence of their aggression. It seems that Mr. Ralston makes too great a demand on international law when he requires that it regard as illegal those acts and their consequences which do not respond to the highest conceptions of ethics and morality. International law might thus become even weaker than it is and it would not thereby make the contribution to decency which Mr. Ralston demands of it. The remedy lies in educating public opinion to an appreciation of the fact that both morality and self-interest demand a different conception of international relations, which international law would then gladly record and apply. The reading of this book in picturing the existing order in international relations will do much to afford that very education which is so much needed.

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*Common Law Marriage and Its Development in the United States.* By Otto E. Koegel. Washington, John Byrne & Co., 1922. pp. 179.

In the pages of this book the author makes no contribution to the solution of the problems presented by the existence of common-law marriages in the United States nor does he present any material which is at all new or original. The entire volume is summed up in one paragraph which extends from the bottom of page eight to the middle of page ten. Here the author indicates (1) that common-law marriages have not been valid in England since 1753; (2) that such marriages were valid in England before that date; (3) that such marriages were invalid at common law for possessory purposes; (4) that such marriages were invalid in some of the American Colonies and contrary to legislation and policy of all colonies; (5) that the earlier decisions in the United States are against the validity of common-law marriages, but that the later ones, following some *dicta* of Chancellor Kent's in 1809, hold that such marriages are valid, and (6) that the decisions in this country on the subject are poorly considered and are at variance with each other, and that (7) such marriages are opposed by the American Bar Association, the Commission on Uniform State Laws and "all modern authorities on Sociology, Marriage, and kindred subjects." The one hundred and sixty pages which follow add nothing to this paragraph. They simply expand the obvious by quotations from cases and textbooks which are well known. Fully half the book is made up of quotations. A great portion of the rest of the text consists of sentences introducing or connecting these quotations.

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